

COURT OF CRIMINAL APPEALS NO. 00-1058**APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS****FROM****CIRCUIT COURT OF** BULLOCK **COUNTY, ALABAMA****CIRCUIT COURT NO.** CC-1994-74.61**CIRCUIT JUDGE** Hon. Michae Emfinger**Type of Conviction / Order Appealed From:** Rule 32 Petition**Sentence Imposed:** Dismissed**Defendant Indigent:** ☒ **YES** ☐ **NO**Terrance Robinson**NAME OF APPELLANT**(Appellant's Attorney)(Telephone No.)(Address)(City)(State)(Zip Code)**V.****STATE OF ALABAMA****NAME OF APPELLEE**(State represented by Attorney General)**NOTE: If municipal appeal, indicate above, and enter name and address of municipal attorney below.****(For Court of Criminal Appeals Use Only)**

I N D E X

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ACR0372 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 1994 000074.61  
 OPER: IRJ CASE ACTION SUMMARY  
 PAGE: 1 CIRCUIT CRIMINAL RUN DATE: 08/11/2000  
 THE CIRCUIT COURT OF BULLOCK JUDGE: LBS

STATE OF ALABAMA VS ROBINSON TERRANCE  
 P O BOX 56  
 CASE: CC 1994 000074.61 ELMORE, AL 36025 0000

DOB: 07/28/1977 SEX: M RACE: B HT: 0 00 WT: 000 HR: EYES:  
 SSN: 909940073 ALIAS NAMES: TERRANCE ROBINSON

CHARGE01: RULE 32-FELONY CODE01: RULE LIT: RULE 32-FELONY TYP: F #: 001  
 OFFENSE DATE: 08/19/1994 AGENCY/OFFICER: 0090000 RODGERS

DATE WAR/CAP ISS: DATE ARRESTED: 08/23/1994  
 DATE INDICTED: DATE FILED: 08/11/2000  
 DATE RELEASED: DATE HEARING:  
 BOND AMOUNT: \$.00 SURETIES:

DATE 1: DESC: TIME: 0000  
 DATE 2: DESC: TIME: 0000

TRACKING NOS: CC 1994 000074 00 /

DEF/ATY: TYPE: HICKS DEBORAH A WHITMORE TYPE: A  
 1132 NORTH EUFAULA AVENUE  
 HIGHWAY 431 NORTH  
 EUFAULA AL 36027  
 00000

PROSECUTOR: WHISHAM BOYD

OTH CSE: CC199400007400 CHK/TICKET NO: GRAND JURY:  
 COURT REPORTER: SID NO: 000000000  
 DEF STATUS: PRISON DEMAND: OPER: IRJ

DATE ACTIONS, JUDGEMENTS, AND NOTES

8-24-00	Motion to Deny Petition filed.
8-25-00	Order filed - Copy to Petitioner + DA
8-25-00	Carr. filed as received from Judge
8-25-00	Motion to Amend Rule 32 filed.
8-30-00	Motion to Set aside + Vacate order filed.
9-12-00	Order filed - Copies to Judge Emfinger, DA, Att. Hughes + Def.
9-15-00	Motion to Grant Continuance, etc.
10-23-00	Motion Granted. Case continued for the Defendant/Petitioner to file any additional materials related to and material to his current Rule 32 filing. Judge Emfinger
10-24-00	Copy of CAS to Def + DA.
11-8-00	Motion for Hearing + appointment of Counsel.
11-1-00	Set for Dec. 11 <sup>th</sup> Judge Emfinger
12-4-00	Order to Transfer Inmate filed - Copies to Parties

ACROSS ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY  
CONTINUATIONCASE: CC 1994 000074.61  
JUDGE ID: MOE

STATE OF ALABAMA

VS

ROBINSON TERRANCE

DATE

ACTION, JUDGMENTS, CASE NOTES

1-11-01 Motion To Amend Rule 32  
 1-24-01 Order filed - Copies to DA & Petitioner  
 2-20-01 Notice of Appeal, Docketing Statement, Reporter's  
 Transcript Order filed  
 2-22-01 Clerk's Notice of Appeal filed - copy to DA, AG, Court  
 Reporter, Court of Criminal Appeals, Def.

# PETITION FOR RELIEF FROM CONVICTION OR SENTENCE

(Pursuant to Rule 32,  
Alabama Rules of Criminal Procedure)

Case Number

CC 94 74.61  
ID YR NUMBER

IN THE \_\_\_\_\_ CIRCUIT \_\_\_\_\_ COURT OF BULLOCK ALABAMA

TERRENCE ROBINSON vs. STATE OF ALABAMA  
Petitioner (Full Name) Respondent

[Indicate either the "State" or,  
if filed in municipal court, the  
name of the "Municipality"]

Prison Number 182958 Place of Confinement STATON

County of conviction BULLOCK COUNTY, ALABAMA

**NOTICE: BEFORE COMPLETING THIS FORM, READ CAREFULLY  
THE ACCOMPANYING INSTRUCTIONS.**

1. Name and location (city and county) of court which entered the judgment of conviction  
or sentence under attack UNION SPRINGS, ALABAMA  
BULLOCK COUNTY, ALABAMA

2. Date of judgment of conviction JULY 21, 1995

3. Length of sentence LIFE

4. Nature of offense involved (all counts) MURDER

5. What was your plea? (Check one)

- (a) Guilty \_\_\_\_\_  
(b) Not guilty XX  
(c) Not guilty by reason of mental disease or defect \_\_\_\_\_  
(d) Not guilty and not guilty by reason of mental disease or defect \_\_\_\_\_

## 6. Kind of trial: (Check one)

(a) Jury XX

(b) Judge only \_\_\_\_\_

## 7. Did you testify at the trial?

Yes \_\_\_\_\_

No XX

## 8. Did you appeal from the judgment of conviction?

Yes XX

No \_\_\_\_\_

## 9. If you did appeal, answer the following:

## (a) As to the state court to which you first appealed, give the following information:

(1) Name of court ALABAMA CRIMINAL COURT OF APPEALS(2) Result AFFIRMED(3) Date of result UNKNOWN AT THIS TIME

## (b) If you appealed to any other court, then as to the second court to which you appealed, give the following information:

(1) Name of court XXXXXXXXXXXXXX(2) Result XXXXXXXXXXXXXX(3) Date of result XXXXXXXXXX

## (c) If you appealed to any other court, then as to the third court to which you appealed, give the following information:

(1) Name of court XXXXXXXXXXXXXX(2) Result XXXXXXXXXXXXXX(3) Date of result XXXXXXXXXXXXXX

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, application or motions with respect to this judgment in any court, state or federal?

Yes XX No       

11. If your answer to Question 10 was "yes", then give the following information in regard to the first such petition, application, or motion you filed:

- (a) (1) Name of court BULLOCK CIRCUIT COURT  
 (2) Nature of proceeding RULE 32  
 (3) Grounds raised INEFFECTIVE ASSISTANCE OF COUNSEL

(attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes        No XX

(5) Result DENIED

(6) Date of result PRESENTLY UNKNOWN

(b) As to any second petition, application, or motion, give the same information:

- XXXXXXXXXXXXX  
 (1) Name of court XXXXXXXXXXXXX  
 (2) Nature of proceeding XXXXXXXXXXXXX  
 (3) Grounds raised XXXXXXXXXXXXX

(attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes        No XX

(5) Result XXXXXXXXXXXXX

(6) Date of result XXXXXXXXXXXXX

(c) As to any third petition, application, or motion, give the same information (attach additional sheets giving the same information for any subsequent petitions, applications, or motions):

- XXXXXXXXXXXXX  
 (1) Name of court XXXXXXXXXXXXX

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(2) Nature of proceeding XXXXXXXXXXXXXXXXXX(3) Grounds raised XXXXXXXXXXXXXXXXXX

(attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes \_\_\_\_\_ No XX(5) Result XXXXXXXXXXXXXXXXXX(6) Date of result XXXXXXXXXXXXXXXXXX

(d) Did you appeal to any appellate court the result of the action taken on any petition, application, or motion?

(1) First petition, etc. Yes XX No \_\_\_\_\_

(2) Second petition, etc. Yes \_\_\_\_\_ No \_\_\_\_\_

(2) Third petition, etc. Yes \_\_\_\_\_ No \_\_\_\_\_

**ATTACH ADDITIONAL SHEETS GIVING THE SAME INFORMATION  
FOR ANY SUBSEQUENT PETITIONS, APPLICATIONS, OR MOTIONS.**

(e) If you did not appeal when you lost on any petition, application, or motion, explain briefly why you did not:

CCCCCCCCCCCCCCCC

12. Specify every ground on which you claim that you are being held unlawfully, by placing a check mark on the appropriate line(s) below and providing the required information. Include all facts. If necessary, you may attach pages stating additional grounds and the facts supporting them.

**GROUND OF PETITION**

Listed below are the possible grounds for relief under Rule 32. Check the ground(s) that apply in your case, and follow the instruction under the ground(s):

\_\_\_\_\_ A. The Constitution of the United States or of the State of Alabama requires a new trial, a new sentence proceeding, or other relief.

For your information, the following is a list of the most frequently raised claims of constitutional violation:.



- (1) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (2) Conviction obtained by use of coerced confession.
- (3) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (4) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (5) Conviction obtained by a violation of the privilege against self-incrimination.
- (6) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (7) Conviction obtained by a violation of the protection against double jeopardy.
- (8) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (9) Denial of effective assistance of counsel.

This list is not a complete listing of all possible constitutional violations.

If you checked this ground of relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each constitutional violation that you claim, whether or not it is one of the nine listed above, and include under it each and every fact you feel supports this claim. Be specific and give details.

YES B. The court was without jurisdiction to render the judgment or to impose the sentence.

SEE ATTACHED MOTION IN SUPPORT

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

\_\_\_\_\_ C. The sentence imposed exceeds the maximum authorized by law, or is otherwise not authorized by law.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

\_\_\_\_\_ D. Petitioner is being held in custody after his sentence has expired.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

YES E. Newly discovered material facts exist which require that the conviction or sentence be vacated by the court, because: TO BE AMENDED LATER FOR FULL SPECIFIC FACTS

The facts relied upon were not known by petitioner or petitioner's counsel at the time of trial or sentencing or in time to file a post-trial motion pursuant to rule 24, or in time to be included in any previous collateral proceeding, and could not have been discovered by any of those times through the exercise of reasonable diligence; and

The facts are not merely cumulative to other facts that were known; and

The facts do not merely ar nt to impeachment evidence; and

If the facts had been known at the time of trial or sentencing, the result would probably have been different; and

The facts establish that petitioner is innocent of the crime for which he was convicted or should not have received the sentence that he did.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

F. The petitioner failed to appeal within the prescribed time and that failure was without fault on petitioner's part.

If you checked this ground or relief, attach a separate sheet of paper with this ground listed at the top of the page. On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

13. **IMPORTANT NOTICE REGARDING ADDITIONAL PETITIONS RULE 32.2(b) LIMITS YOU TO ONLY ONE PETITION IN MOST CIRCUMSTANCES. IT PROVIDES:**

**"Successive Petitions.** The court shall not grant relief on a second or successive petition on the same or similar grounds on behalf of the same petitioner. A second or successive petition on different grounds shall be denied unless the petitioner shows both that good cause exist why the new ground or grounds were not known or could not have been ascertained through reasonable diligence when the first petition was heard, and that failure to entertain the petition will result in a miscarriage of justice."

A. Other than an appeal to the Alabama Court of Criminal Appeals or the Alabama Supreme Court, have you filed in state court any petition attacking this conviction or sentence?

Yes \_\_\_\_\_ No XX

B. If you checked "Yes," give the following information as to earlier petition attacking this conviction or sentence:

(a) Name of court XXXXXXXXXXXXXX

(b) Result XXXXXXXXXXXXXX

(c) Date of result XXXXXXXXXXXXXX  
(attach additional sheets if necessary)

C. If you checked the "Yes" line in 13A, above, and this petition contains a different ground or grounds of relief from an earlier petition or petitions you filed, attach a separate sheet or sheets labeled: "EXPLANATION FOR NEW GROUND(S) OF RELIEF."

On the separate sheet(s) explain why "good cause exists why the new ground or grounds were not known or could not have been ascertained through reasonable diligence when the first petition was heard, and [why the] failure to entertain [this] petition will result in a miscarriage of justice."

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes \_\_\_\_\_ No XX

15. Give the name and address, if known, of each attorney who represented you at the following stages of the case that resulted in the judgment under attack:

(a) At preliminary hearing \_\_\_\_\_

(b) At arraignment and plea \_\_\_\_\_

(c) At trial BOWDEN & HICKS

(d) At sentencing \_\_\_\_\_

(e) On appeal SAME AS ABOVE

(f) In any post-conviction proceeding \_\_\_\_\_

(g) On appeal from adverse ruling in a post-conviction proceeding \_\_\_\_\_

PRO SE

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes \_\_\_\_\_ No XX

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes \_\_\_\_\_ No XX

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

NONE AT ALL

(b) And give date and length of sentence to be served in the future: \_\_\_\_\_

NONE AT ALL

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes \_\_\_\_\_ No XX

18. What date is this petition being mailed?

AUGUST 7th , 2000

Wherefore, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

# PETITIONER'S VERIFICATION UNDER OATH SUBJECT TO PENALTY FOR PERJURY

I swear (or affirm) under penalty of perjury that the foregoing is true and correct.

Executed on 8-4-00  
(Date)

Terrence Robinson  
Signature of Petitioner

SWORN TO AND SUBSCRIBED before me this the 4th day of August, 192000  
James E. Davis  
Notary Public

OR \*

## ATTORNEY'S VERIFICATION UNDER OATH SUBJECT TO PENALTY FOR PERJURY

I Swear (or affirm) under penalty of perjury that, upon information and belief, the foregoing is true and correct. Executed on \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of Petitioner's Attorney

SWORN TO AND SUBSCRIBED before me this the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Name and address of attorney representing petitioner  
in this proceeding (if any)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE CIRCUIT COURT OF  
BULLOCK COUNTY, ALABAMA

TERRANCE ROBINSON,  
Petitioner

- US -

CC-94-74-60

STATE OF ALABAMA  
Respondent

### RULE 32 PETITION

Comes now, TERRANCE ROBINSON  
AND under Near Jurisdictional  
Grounds, File the Above Style  
Rule 32 Petition. Petitioner  
Further Provide Grounds under  
Newly Discovered Evidence, to  
SUPPORT AND SHOW ACTUAL  
INNOCENCE. The Following  
To wit:

THE COURT WAS WITHOUT  
JURISDICTION TO TRY  
Petitioner

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1. THE CONSTITUTIONAL RIGHT UNDER ALABAMA LAW TO HAVE FULL NOTICE OF THE STATE'S INTENT TO CONSOLIDATE MUST be Given before the CASE is Scheduled FOR TRIAL.
  2. THE RECORDS CLEARLY SHOW THAT THE CASE WAS SET FOR TRIAL MONDAY, JUNE 19, 1995 See exhibit "A" [TR-5].
  3. THE STATE'S MOTION TO CONSOLIDATE WAS FILED JUNE 16, 1995.
  4. THE COURT ALLOWED CONSOLIDATION TO TAKE PLACE, WHERE THE RULES OF COURT, AND ALABAMA LAW FORBIDS CONSOLIDATION OF A CASE, WITHOUT PRIOR NOTICE, AND SERVING by TIME before TRIAL.
- (A) PETITIONER WAS DENIED EQUAL PROTECTION OF WHAT ALABAMA LAW PROVIDES FOR ONE WHO HAS A RIGHT TO A FAIR TRIAL.

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5. THE STATE did NOT give AMPLe SUFFICIENT notice OF ANY CONSOLIDATION which is A MANDATORY requirement before PETITIONER could be PLACED ON TRIAL with ANOTHER DEFENDANT ON TRIAL AND CHARGED WITH A CRIMINAL CHARGE.

THE COURT DEPRIVED PETITIONER OF A NEW TRIAL BY PLACING FRAUDENTLY, MISLEADING DOCUMENTS BEFORE THE CRIMINAL COURT OF APPEALS.

1. PETITIONER'S MOTION which WAS GIVEN TO COUNSEL by ALLEGED HAND MAIL ON June 16, 1995 AT THE PROHIBING SESSION OF TRIAL COURT, WAS KNOWINGLY PLACED BACK BEFORE THE COURT OF CRIMINAL APPEALS IN BAD FAITH TO deny PETITIONER A NEW TRIAL, TO which AND



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ESTABLISH Right exist.

2. PETITIONER FOR SPECIFIC PROOF  
PROVIDE EXHIBIT "D", MR.

Bowden Counsel FOR PETITIONER  
PLACED NOTHING IN THE RECORD  
AT THE CONSOLIDATION HEARING  
WHICH WAS CONDUCTED FIRST  
FOR ANOTHER CLIENT OF MR.

Bowden, A CHARLIE TAVER.

(A) IN THE CONCLUSION OF THE  
MOTION FOR MR TAVER, MR.  
Bowden merely complied with  
THE COURT'S ANSWER, WHEN  
QUESTION, IF HE WAS MAKING  
THE SAME IN TERRENCE ROBINSON  
CASE, CC-94-74.

MR. Bowden SAID: YES SIR. -  
TO THE SAME STUFF.

3. THE COURT OF CRIMINAL APPEAL  
WANTED TO KNOW WHETHER DEFENSE  
COUNSEL RECEIVED NOTICE OF THE  
STATE'S MOTION TO CONSOLIDATE  
BEFORE IT WAS GRANTED.



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4. THE ANSWER WHICH WENT BACK ON REMAND BY CIRCUIT COURT WAS DONE IN BAD FAITH TO DENY PETITIONER A NEW TRIAL.

(A) THE MOTION WAS NOT GIVEN UNTIL FRIDAY JUNE 16, 1995, AND IN THE PROCESS OF A HEARING WITH CHARLIE TARVER, SEE PAGE 3 OF EXHIBIT "D" FOR STRICT PROOF.

THEREUPON, A DISCUSSION WAS HELD OFF THE RECORD BETWEEN THE COURT AND COUNSEL.

THE MOTION WAS GIVEN IN OPEN COURT AND THE SAME ARGUMENT WAS MADE, WITH COMMENT BEING "I ASSUME YOU MAKE THE SAME ARGUMENT IN THE CASE OF TERRENCE ROBINSON, CC-94-74, THE SAME STUFF, EXCEPT IT WILL BE TERRENCE ROBINSON INSTEAD OF CHARLIE MACK TARVER."

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5. THE COURT WAS WITHOUT ANY JURISDICTION TO CONSOLIDATE PETITIONER'S CASE WITH ANY PARTY CHARGED.

(A) THE SAME SET OF CIRCUMSTANCES COULD NOT APPLY WHEN IN FACT; TERRENCE ROBINSON WENT AND REPORTED WHAT TOOK PLACE.

(B) TERRENCE ROBINSON DID NOT PULL THE TRIGGER THAT FIRED THE SHOT WHICH KILLED THE VICTIM.

(C) TERRENCE ROBINSON WAS NOT ON TRIAL FOR ATTEMPTED ROBBERY, NOR DID TERRENCE ROBINSON PARTICIPATE IN ACTUAL MURDER.

### PREJUDICE

1. THE INFORMATION WHICH WENT BEFORE THE COURT OF CRIMINAL APPEALS, WAS KNOWINGLY FALSE, MISLEADING, AND DONE IN BAD FAITH TO DENY A NEW TRIAL,

Page 7

And to deny CONSTITUTIONAL Rights under The 6th, AND 14th Amendments of The CONSTITUTION of These UNITED STATES.

2. PETITIONER HAS been Prejudice IN ALL FORMS, AT TRIAL, AND ON DIRECT APPEAL.

3. PETITIONER HAS been Prejudice Where All Three have CONSPIRED To Deny A FAIR TRIAL, (1) WILLIAM H. ROBERTSON, (2) BOYD WHIGHAM, AND (3) COUNSEL BOWDEN

4. PETITIONER WAS TOTALLY Prejudice where there WAS NOTHING SPECIFICALLY rendered in HIS behalf FOR CONSOLIDATION Period, AND IT WAS KNOWN AT ALL TIMES THAT THIS PETITIONER WAS DENIED A FAIR TRIAL Altogether.

(A) PETITIONER WAS MADE TO defend AGAINST Robbery, which WAS NOT included in the INDICTMENT.

(B) PETITIONER had to defend AGAINST Aid AND Abetting which WAS NOT

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(C) Petitioner had to defend Against Murder under ACTUAL being The Person who FIRED The SHOT.

THE FACTS ARE SIMPLE THE COURT WAS WITHOUT JURISDICTION TO HAVE PETITIONER ON TRIAL WITH ANY CO-DEFENDANT FOR MURDER, AS CHARGED UNDER 13A-6-2 FOR THE DEATH OF MR. GRUBBS.

WHEREFORE IN THAT IT IS FULL KNOWLEDGE THAT A GREAT MIS CARRIAGE OF JUSTICE IS BEFORE THIS COURT. PETITIONER SEEKS THE COURT ORDER TO TIMELY ISSUE FOR A SPEEDY HEARING, AND GRANT THE RULE 32 AS REQUIRED BY LAW.

Terrence Robinson

Terrence Robinson

SWORN AND SUBSCRIBED TO BEFORE ME THIS  
2<sup>nd</sup> DAY OF Aug 2000

Garry Smith

NOTARY NOV. 8, 2000

Case Number

ID	YR	NUMBER
(To be completed by Court Clerk)		

**IN FORMA PAUPERIS DECLARATION**BULLOCK COUNTY CIRCUIT COURT

[Insert appropriate court]

TERRENCE ROBINSON

(Petitioner)

vs.

STATE OF ALABAMA

(Respondent(s))

**DECLARATION IN SUPPORT OF REQUEST TO PROCEED  
IN FORMA PAUPERIS**

I, TERRENCE ROBINSON, declare that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed? Yes \_\_\_\_\_ No XX

a. If the answer is "yes", state the amount of your salary or wages per month, and give the name and address of your employer.

NONE UNEMPLOYED DUE TO IMPRISONMENT

b. If the answer is "no", state the date of last employment and the amount of the salary and wages per month which you received.

INCARCERATED

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession, or other form of self-employment?

Yes \_\_\_\_\_ No XX

b. Rent payments, interest, or dividends?

Yes \_\_\_\_\_ No XX

c. Pensions, annuities, or life insurance payments?

Yes \_\_\_\_\_ No XX

d. Gifts or inheritances?

Yes \_\_\_\_\_ No XX

e. Any other sources?

Yes \_\_\_\_\_ No XX

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

NONE

2. Do you own cash, or do you have money in a checking or savings account?

Yes \_\_\_\_\_

No X

See Attached

(Include any funds in prison accounts.)

If the answer is "yes", state the total value of the items owned.

NONE

3. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes \_\_\_\_\_

No X

If the answer is "yes", describe the property and state its approximate value.

NONE

4. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

NONE

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on AUGUST 3 2000 TERRENCE ROBINSON  
(Date)

Terrence Robinson #182958  
Signature of Petitioner

### CERTIFICATE

I hereby certify that the petitioner herein has the sum of \$ \_\_\_\_\_ on account to his credit at the institution where he is confined. I further certify that petitioner likewise has the foregoing securities to his credit according to the records of said \_\_\_\_\_ institution:

See attached financial info dated 8/3/00.

Maitha Paylor

DATE

AUTHORIZED OFFICER OF INSTITUTION

STATE OF ALABAMA  
DEPARTMENT OF CORRECTIONS  
STATON CORRECTIONAL FACILITY8/3/2000  
*Martha Rayburn*

21

AIS #: 182958

NAME: ROBINSON, TERRANCE

THESE FIGURES ARE AS OF: 08/03/2000

MONTH	# OF DAYS	AVG DAILY BALANCE	MONTHLY DEPOSITS
FEB	25	\$0.00	\$0.00
MAR	31	\$0.00	\$0.00
APR	30	\$0.00	\$0.00
MAY	31	\$0.00	\$0.00
JUN	30	\$0.00	\$0.00
JUL	31	\$3.08	\$20.01
AUG	3	\$0.00	\$0.00

## IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

TERRANCE ROBINSON,

Petitioner,

vs.

STATE OF ALABAMA,

Respondent.

CASE NO. CC-94-74.61

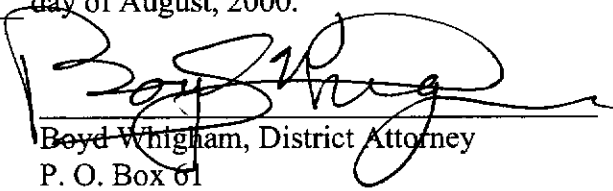
(Prior Rule 32 Case No. CC-94-74.60)

MOTION TO DENY  
PETITION FOR RELIEF FROM CONVICTION OR SENTENCE  
(PURSUANT TO RULE 32)

Comes now the State of Alabama, by and through its District Attorney, Boyd Whigham, and says as follows:

1. The Petitioner filed a Rule 32 Petition, dated June 6, 1997, and the State filed a response dated August 11, 1997, "Exhibit A". The Court dismissed the Petition on August 14, 1997, "Exhibit B".
2. The Petition filed on or about August 11, 2000, is a Successive Petition and is precluded pursuant to Rule 32.2 (b).
3. The Petitioner alleges jurisdictional issues and newly discovered evidence on page 5 of his Rule 32 Petition solely for the purpose of invoking Rule 32.1 (b), to circumvent Rule 32.2, Preclusion of Remedy.
4. The Petitioner alleges that consolidation of his trial was jurisdictional. The issue of consolidation of the Defendants for trial was raised on Petitioners Direct Appeal, is not jurisdictional and is precluded under Rule 32.2.
5. The Petitioner states that this Rule 32 Petition is based on newly discovered evidence and thereafter makes no statement that conforms to newly discovered evidence under Rule 32.1 (e).
6. The Petition should be denied as Successive Petition.

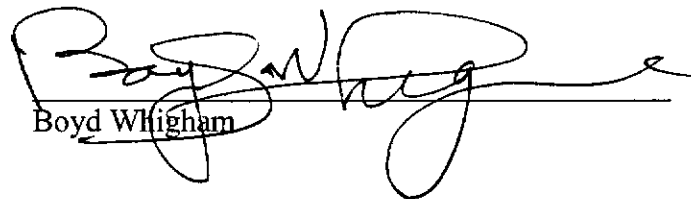
Respectfully submitted this 23 day of August, 2000.

  
Boyd Whigham, District Attorney  
P. O. Box 61  
Eufaula, Alabama 36072-0061



CERTIFICATE OF SERVICE

I hereby certify that I have this 23 day of August, 2000, served a copy of the above and foregoing pleading on Terrance Robinson, AIS #182958, by placing a copy of same in the United States Mail, postage prepaid and addressed to him in care of Bullock County Correctional Facility, Post Office Box 5107, Union Springs, Alabama 3608

  
Boyd Whigham

IN THE CIRCUIT COURT OF  
BULLOCK COUNTY, ALABAMA

TERRANCE ROBINSON,

Petitioner,

vs.

STATE OF ALABAMA,

Respondent.

CASE NO. CC-94-74.60

MOTION TO DISMISS  
PETITION FOR RELIEF FROM CONVICTION OR SENTENCE  
(PURSUANT TO RULE 32)

Comes now the State of Alabama, by and through its District Attorney, Boyd Whigham, and says as follows:

1. Petitioner alleges the following issues:

- A. Ineffective assistance of counsel.
- B. Prosecutors misconduct.

2. The Petitioner's allegation of prosecutors misconduct is raised as an issue relating to ineffective assistance of counsel. The allegations of prosecutors misconduct are without merit and the Code of Alabama Section 15-14-53, provides that the victim's family member may sit at the table with the prosecutor, to-wit:

***Section 15-14-53. Right of victim to be present in courtroom.***

*The victim of a criminal offense shall be entitled to be present in any court exercising any jurisdiction over such offense and therein to be seated at the counsel table of any prosecutor prosecuting such offense or other attorney representing the government or other persons in whose name such prosecution is brought. (Acts 1983, No. 83-622, p. 971, Section 4.)*

3. The only issue that the Petitioner sets forth any facts in support thereof is "ineffective assistance of counsel", which fails to meet the requirements of Rule 32.6 (b). The grounds raised as to ineffective assistance of counsel fail to rise to the level that the courts have recognized as ineffective. The

Petitioner alleges numerous reasons why counsel was ineffective, however, the allegations are not supported by the record.

In order to constitute cause sufficient to overcome procedural default, a counsel's performance must be constitutionally ineffective under the standards of Strickland v. Washington, 466 U. S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). Jackson v. Herring, 42 F. 3d 1350, 1358 (11th Cir. 1995); Devier v. Zant, 3 F. 3d 1445, 1456 (11th Cir. 1993); Smelchor v. Attorney General of Alabama, 947 F. 2d 1472, 1475 (11th Cir. 1991).

In Strickland, the Court set forth the test for determining whether counsel's performance "so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Id. 466, 104 S. Ct. at 2064. This test has two prongs:

First, the defendant must show that counsel's performance was deficient. This requires showing that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive defendant of a fair trial, a trial whose result is reliable.

Under Strickland, counsel's performance is measured for "reasonableness under professional prevailing norms".

#### 4. COUNSEL'S PERFORMANCE

"When reviewing whether an attorney is effective, courts 'should always presume strongly that counsel's performance was reasonable and adequate'." Rogers v. Zant, 13 F. 3d 384, 386 (11th Cir. 1994). Further, "[e]ven if many reasonable lawyers would not have done as defense counsel did at trial, no relief can be granted on ineffectiveness grounds unless it is shown that no reasonable lawyer, in the circumstances, would have done so. This burden, which is petitioner's to bear, is and is supposed to be a heavy one." Id. at 386. The Rogers court additionally noted that "the cases in which habeas petitioners can properly prevail on the ground of ineffective assistance of counsel are few and far between." Id.

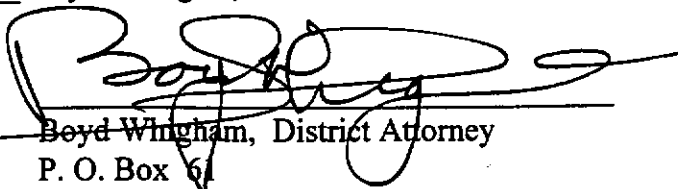
Applying the foregoing principles to the instant case, it is clear that Petitioner has failed to prove the first prong of Strickland v. Washington, and thus he has failed to establish cause for the procedural default.

The Petitioner contends he was denied effective assistance of counsel at trial for the following reasons:

1. Adequate prepare for trial.
2. Inadequate pretrial investigation (to include plea of guilt).
3. Failed to investigate State's key witness.
4. Failure to familiarize with laws and facts.
5. Fail to request charge on manslaughter.
6. Fail to object in closing arguments to vouching for State's witnesses.
7. Fail to object to Court's charge on reasonable doubt.
8. Failure to charge jury on charge of capital murder and robbery.
9. Fail to object to prosecutor's improper argument.
5. All matters raised as to ineffective assistance of counsel are not supported by the record.
6. Petitioner was represented by two skilled and experienced trial lawyers who provided able assistance of counsel.
7. If the allegation concerning the class of felony for manslaughter and the punishment for manslaughter had any merit, they could have been raised at trial and on appeal.
8. The Petitioner fails to state a claim upon which relief may be granted.
9. No material issue of fact or law exists which would entitle Petitioner to relief.
10. The Petitioner is not entitled to relief because the grounds for relief stated in the Petition:
  - (a) May still be raised on appeal or by post-trial motion;
  - (b) Were raised or addressed at trial;
  - (c) Could have been but were not raised or addressed at trial;
  - (d) Were raised or addressed on appeal or in a previous collateral proceeding;
  - (e) Could have been but were not raised on appeal.

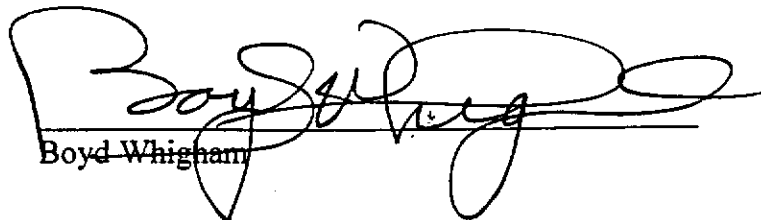
That the Petition should be dismissed or in the alternative each ground should be denied.

Respectfully submitted this 11 day of August, 1997.

  
Boyd Whigham, District Attorney  
P. O. Box 61  
Eufaula, Alabama 36072-0061

CERTIFICATE OF SERVICE

I hereby certify that I have this 12 day of August, 1997, served a copy of the above and foregoing pleading on Terrance Robinson, AIS #182958, by placing a copy of same in the United States Mail, postage prepaid and addressed to him in care of Holman Correctional Facility, Holman 3700, Atmore, Alabama 36503.

  
Boyd Whigham

"EXHIBIT B"

IN THE CIRCUIT COURT OF  
BULLOCK COUNTY, ALABAMA

TERRANCE ROBINSON,

Petitioner,

vs.

STATE OF ALABAMA,

Respondent.

CASE NO. CC-94-74.60

**ORDER**

This matter coming before the Court on Rule 32 Petition and a response by the State, the Court makes findings of facts and conclusion of law as follows:


The Court finds that the Petition is without merit in that the Petitioner was represented by two experienced attorneys and the record does not support the allegations of ineffective assistance of counsel. The Court finds that the Petitioner's claim of ineffective assistance of counsel is without merit and no material issue of fact or law exists which would entitle the Petitioner to relief.

The Court finds that issues raised by the Petition fail to contain a clear and specific statement of the grounds upon which relief is sought to include a factual basis of the grounds, as required by Rule 32.6 (b).

The Court further finds that all other issues raised are precluded under Rule 32.2 (a)(3) and Rule 32.2 (a)(5).

It is therefore **ORDERED and ADJUDGED** that the Petition be dismissed pursuant to the provisions of Rules 32.6 (b), 32.2 (a)(3), and 32.2 (a)(5). All issues are hereby **DISMISSED** pursuant to Rule 32.7 (d), Alabama Rules of Criminal Procedure.

**ORDERED and ADJUDGED** this 14<sup>th</sup> day of August, 1997.

  
\_\_\_\_\_  
W. Thomas Gaither  
Circuit Court Judge

## IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

TERRENCE ROBINSON,	)	
Petitioner,	)	
vs.	)	CASE NO. CC-94-74.61
STATE OF ALABAMA,	)	(Prior Rule 32 Case No. CC-94-74.60)
Respondent.	)	

**ORDER**

This matter being presented to the Court by Petition filed August 11, 2000, and a response by the State dated August 22<sup>nd</sup>, 2000, the Court makes findings of fact and conclusions of law as follows:

The Court finds that the Petition has raised no jurisdictional issue and did not present any newly discovered facts that meet the requirements of Rule 32.1 (e).

The Court finds that the Petition filed August 11, 2000, is a second Petition under Rule 32.2 (b) and the Petitioner shows no good cause exists why and new grounds were not known when the first Petition was filed.

It is therefore **ORDERED and ADJUDGED** that the Petition be precluded pursuant to the provisions of Rule 32.2 (b). All issues are **DISMISSED** pursuant to Rule 32.7 (d) A. R. Cr. P.

**ORDERED and ADJUDGED** this 25<sup>th</sup> day of August, 2000.



Burt Smithart  
Circuit Court Judge

IN THE CIRCUIT COURT  
OF BULLOCK COUNTY,  
ALABAMA

TERRENCE ROBINSON  
Petitioner

VS  
STATE OF ALABAMA  
Respondents

CASE NO. CC-94-74

MOTION TO AMEND Rule 32

Comes now Petitioner and  
petition the Honorable Judge  
to GRANT the Amending of the  
Rule 32 Petition, and Request  
the Judge issue an order for  
the District Attorney to  
Produce all relevant discovery  
Request for ACTUAL INNOCENCE,  
and Newly Discovered Evidence  
the following:

Ground one

THE COURT WAS WITHOUT JURIS-  
DICTION TO IMPOSE Sentence



Page 2

1. Terrence Robinson being A Citizen of The State of ALABAMA, AND AT The Time of This Alleged offense WAS 17. YEARS OF AGE.
  2. Code of ALABAMA 1975 Section 12-15-1(3) defines A Child by AGE.
  3. Petitioner is legally A Child AS defined by LAW.
- (A) The COURT WAS WITHOUT JURISDICTION where Petitioner WAS never TRANSFERRED FROM Juvenile COURT TO DISTRICT, OR CIRCUIT COURT.
- (B) THE STATE never Afforded Petitioner Any of His Constitutional Rights to which ALABAMA By LAW AFFORDS All Children Who ARE charged with A CRIMINAL offense.
- (C) THE STATE never Advised Petitioner of His Juvenile MIRANDA Rights before Questioning, AND TAKING OF ANY STATEMENTS.

Page 3

FOR CLEAR PROOF PETITIONER  
ATTACH EXHIBIT "A".

4. PETITIONER WAS NEVER  
GIVEN A PROBABLE CAUSE  
HEARING, NOR WAS THERE ANY  
RIGHTS AFFORDED TO WHAT CODE  
OF ALABAMA 1975 SECTION  
12-15-33, 12-15-34 REQUIRES.

SEE CLEVELAND V. STATE, 555 SO.2d  
302.

(A) PETITIONER HAS BEEN PREJUDICE  
AS A RESULT OF THE ACTIONS  
BY STATE OF ALABAMA QUESTIONING,  
INTERROGATING, AND INTERVIEWING  
CHILDREN WITHOUT FIRST ADVISING  
THEM OF THEIR LEGAL RIGHTS.

(B) THE COURT WAS WITHOUT  
JURISDICTION WHEN THERE WAS  
NO TRANSFER PROCEEDINGS FROM  
JUVENILE COURT TO DISTRICT, AND  
CIRCUIT COURT AS REQUIRED BY  
LAW.

page 4

5. The records which are attached to the Rule 32 petition shows that Officer Wilbert Jernigan, was the Officer who conducted the questioning, and interrogation of Petitioner. These records show that Officer Jernigan knew that Petitioner was only 17 Years of age at the time he conducted the questioning of Petitioner.

(A). The Statute requirements under Code Of Alabama 1975 § 12-15-33 and 12-15-34 were never met to afford the Constitutional rights to which this Petitioner was entitled by law.

#### RELIEF WHICH IS DUE

1. The Court grant a hearing of the issue which demands relief by law.
2. The Court issue an order for transporting Petitioner before the Court for a full hearing of all issues.
3. The Court appoint Counsel for the rights of this Petitioner.
4. To any and all relief that Petitioner is entitled.

#### GROUND TWO NEWLY DISCOVERED EVIDENCE

1. Petitioner for proof that at the time of trial there was no way of this Petitioner having any knowledge that a deal had been made with O'Neal Jackson, by and through State Agents for the actual false testimony and to conspire to make it appear that, Petitioner was the one who was a Co-Defendant with the murder that took place.

page 5.

2. The date of Petitioner receiving the information comes from documents which were mailed from Attorney Bowden, and dated for proof for within Six Months, this was made known for Newly Discovered Evidence.

(A). O'Neal Jackson's testimony which was given on 12/09/1994. The information is a Statement : It says; Terrance Robinson told me and Corey Nunley that he was going to show us how to do a real robbery.

The statement at this point does not say anything, not one iota of facts that Terrence Robinson was going to show any person ~~how~~ to do an act of murder. There is nothing which implies that Terrence Robinson even showed O'Neal Jackson to hold a gun on any person at all, and to pull the trigger.

O'Neal Jackson futher said ; Two Black males pulled up. Me and Corey got in the car. we both got out. I went to the passenger side Corey went to the rear of the drivers side. We got into an argument with the two Black Male. I had a 380 and started shooting. The driver of the car also shot. I gave the gun to Terrance Robinson the same night that this occured.

The statement does not show one act that Terrence Robinson did to even be arrested for an accomplice to what O'Neal Jackson

page 6

and Corey Nunley did by their own independent acts.

3. Petitioner was placed before the Grand Jury under acts that were done independently by O'Neal Jackson, and Corey Nunley who were the only ones that went to the car, and made the acts to take and or to attempt to take drugs, and or money. The mind acts of O'Neal Jackson were never known by Terrence Robinson, and there is nothing by way of statement that O'Neal Jackson made that shows and provides that Terrence Robinson said if they don't give it up shot them, and take it.

4. The Newly Discovered evidence shows that on 12/09/94, that a deal was made between State Agents and O'Neal Jackson, a deal to prevent the electric chair, and Life Without Parole. The evidence which was unknown to Petitioner and knowledge that Attorney Bowden knew of and concealed from Petitioner at all times.

(A). If Petitioner had known these facts it would have been made known at trial. Petitioner would have stood before the Court in his own behalf and asked questions to State's witnesses. These are questions which any Jurors would and should have known for actual innocence. There's a planned scheme shown where the State used the real Murders to take an innocent person to prison for their acts which were done to commit the crime.

page 7

5. The use of a deal to knowingly have O'Neal Jackson lie, and commit prjury duribg trial, and to use others for false testimony to make it appear that Terrence Robinson shot and killed Mr. Grubbs is a violation of Alabama law.

(A). The Indictment which was returned stated by specifics that Terrence Robinson Shot Mr. grubbs with a gun. The indictment is false and all other information which went before the Grand Jury to have an Indictment rturned was done illegally.

(B). The information was not known at trial, and was not available for Petitioner, where at all times it was known by Counsel but never made known to Petitioner. See letter which was written to Petitioner from Attorney. There were never any documents given to Petitioner from all the records that Mr. Bowden had until this Petitioner wrote both Counsels and requested all the information which they had in his case files.

6. The newly discovrede evidence grants relief where there's actual innocence that can be proved.

Respectfully

Terrence Robinson  
TERRENCE ROBINSON

SWORN AND SUBSCRIBED TO BEFORE ME THIS  
23 DAY OF August  
Charles Earl Ginn  
NOTARY

2000

STATE OF ALABAMA )  
ELMORE COUNTY )

AFFIDAVIT OF TERRENCE ROBINSON

Personally appeared before me the below named Notary, comes Terrence Robinson, who first being duly sworn under oath, and for truth and honesty, does says the following :

I am Terrence Robinson, and I am over the age of Twenty-One.

I have facts which now come by way of documents that were mailed to me by Attorney Bowden. I never received any information in the past whllch contained the deals which were made with O'Neal Jackson for his testifying against me in a trial before a jury. I know for the real truth now that O'Neal Jackson lied to get the Thirty Years for actual Murder that he did by his own motives.

I never told any person living to go and rob anyone, and I did not tell O'Neal Jackson to shot Mr. Grubbs nor any other person with a gun. There's facts which I am going to show by way of documents that were mailed to me by Attorney Bowden that it was made known that O'Neal Jackson bragged about his shooting the man, and that it was not called for, that they asked him, Why did you shoot the man O'Neal, and O' Neal said he blasted him away. There's not one single evidence which shows that I was present when the questions were asked by the people who did the shooting and ran from the car.

page 2

I am innocent of the crime that I have been falsely accused of and conspired against to be placed in prison. The only reason that I am in prison this day is based on my race, and race alone. I did not tell O'Neal Jackson to shot any person, and I did not give him a gun for any murder, nor for any reason was a gun given to commit a felony offense. Any person who reads the statements that were given, it is clear that I served no acts of any criminal acts that were done, I did not walk with O'Neal Jackson, and I did not assist him in any form to go to any car. O'Neal Jackson did what he did by his own acts and not anyone telling him what to do, the statements shows that each person that left with O'Neal asked him why did he do it. These are the ones who were worried because they were with O'Neal and felt their acts were criminal in nature.

I did not have anything to do with a murder.

Further I say no more at this time.

Terrence Robinson  
TERRENCE ROBINSON

SWORN AND SUBSCRIBED TO BEFORE ME THIS

23 DAY OF August 2000.  
[Signature]  
NOTARY



EXHIBIT "A"  
VOLUNTARY STATEMENTDATE 8-19-94 PLACE Union Springs P.D. TIME STARTED 11:12 P .M.the undersigned Terrence Robinson, am 17 years of age, my date and place ofbirth being the 28 day of July 19 77, at Macon County, Al.now live at Rte 2, Box 370-D Tuskegee, Al.Before answering any questions or making any statements, Wilbert Jernigana person who identified himself as a Police Officer

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

Tonight (8-19-94) approximately 10:00 PM my girlfriend dropped me off on Martin L. King Blvd in front of McLowman Service Station. Once out I (Terrence Robinson) saw Corey Nunley who had on short pants sitting in the back seat of a gray saab in front of the station. I spoke to the driver of the saab and kept walking to the rear of the car. ONeal Jackson was standing on the passenger side of the saab. ONeal Jackson had a scarf on his head and Corey got out of the car, then he (Corey) walked to the driver's side of the saab. I started running south on Martin L. King Blvd and when I looked back I saw ONeal Jackson shooting the man that was on the passenger side. ONeal shot seven or eight

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 11:38 P .M. on the 19 day of August, 19 94

WITNESS: \_\_\_\_\_

Terrence Robinson

Signature of person giving voluntary statement

WITNESS: \_\_\_\_\_

**VOLUNTARY STATEMENT  
(NOT UNDER ARREST)**

Terrence Robinson am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to Captain Wilbert Jernigan. Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 17 years of age, and I live at Rte 2, Box 370-D Tuskegee, Al.

times and Corey shot once. ONeal was shooting a 380 and Corey was shooting a 38 caliber pistol. The gray saab pulled off and everyone ran up to ONeal and Corey. "Neal shouted 'I killed that nigger, I shot that nigger in the chest.'" ONeal and Corey got into the car with James and left. I went to Hardee's.

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

Witnessed at Union Springs P.O., this 19 day of August, 1994.

WITNESS: \_\_\_\_\_ Terrence Robinson

Signature of person giving voluntary statement.

WITNESS: \_\_\_\_\_

## ALABAMA UNIFORM ARREST REPORT

2 No

2 No

OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

1 ORI # 009.0100		2 AGENCY NAME Union Springs Police Dept.		3 CASE # 94.0819.-18		4 SFX B	
5 ARRESTEE'S FIRST, MIDDLE, LAST NAME Robinson, Terrance		6 ALIAS AKA Terry					
7 SEX M		8 RACE W		9 DOB 6'2"		10 WGT 175	
11 EYE Brn		12 HAIR Blk		13 SKIN Med		14	
15 PLACE OF BIRTH (CITY, COUNTY, STATE) Fort Myers, Florida		16 SSN 2167-8151-8106		17 DATE OF BIRTH 07/28/77		18 AGE 28	
19 MISCELLANEOUS ID #		20 SID #		21 FINGERPRINT CLASS KEY MAJOR PRIMARY SCDV SUB-SECONDARY FINAL		22 DL #	
23 ST		24 FBI #		25 HENRY CLASS		26 NCIC CLASS	
27 HOME ADDRESS (STREET, CITY, STATE, ZIP) Rte 2, Box 370D Tuskegee, AL		28 RESIDENCE PHONE 727-3468		29 OCCUPATION (BE SPECIFIC) None		30 EMPLOYER (NAME OF COMPANY/SCHOOL)	
31 BUSINESS ADDRESS (STREET, CITY, STATE, ZIP)		32 BUSINESS PHONE					
33 LOCATION OF ARREST (STREET, CITY, STATE, ZIP) Prairie Street		34 SECTOR #		35 ARRESTED FOR YOUR JURISDICTION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
36 CONDITION OF ARRESTEE: <input checked="" type="checkbox"/> DRUNK <input type="checkbox"/> SOBER <input type="checkbox"/> DRUGS		37 RESIST ARREST? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		38 INJURIES? <input checked="" type="checkbox"/> NONE <input type="checkbox"/> OFFICER		39 ARMED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
40 DESCRIPTION OF WEAPON <input checked="" type="checkbox"/> HANDGUN <input type="checkbox"/> OTHER FIREARM		41 DATE OF ARREST 01/23/94		42 TIME OF ARREST 1:00 PM		43 DAY OF ARREST S M T W T F S	
44 TYPE OF ARREST <input checked="" type="checkbox"/> ON VIEW <input type="checkbox"/> CALL <input type="checkbox"/> WARRANT		45 ARRESTED BEFORE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		46 CHARGE-1 Attempted Robbery		47 UCR CODE	
48 STATE CODE/LOCAL ORDINANCE		49 WARRANT #		50 DATE ISSUED		51 CHARGE-2 Capitol Murder	
52 UCR CODE		53 STATE CODE/LOCAL ORDINANCE		54 WARRANT #		55 DATE ISSUED	
56 CHARGE-3 FEL		57 UCR CODE		58 CHARGE-4 FEL		59 UCR CODE	
60 STATE CODE/LOCAL ORDINANCE		61 WARRANT #		62 DATE ISSUED		63 STATE CODE/LOCAL ORDINANCE	
64 WARRANT #		65 DATE ISSUED					
66 ARREST DISPOSITION <input checked="" type="checkbox"/> HELD <input type="checkbox"/> TOT-LE <input type="checkbox"/> BAIL <input type="checkbox"/> RELEASED		67 IF OUT ON RELEASE WHAT TYPE?		68 ARRESTED WITH (1) ACCOMPLICE (FULL NAME) ONeal Jackson			
				69 ARRESTED WITH (2) ACCOMPLICE (FULL NAME) Corey Nunley			
70 YVR		71 VMA		72 VMO		73 VST	
74 VCO TOP		75 VCO BOTTOM		76 TAG #		77 LIS	
78 VIN		79 IMPOUNDED? <input type="checkbox"/> YES <input type="checkbox"/> NO		80 STORAGE LOCATION/IMPOUND #			
81 OTHER EVIDENCE SEIZED/PROPERTY SEIZED							
82 JUVENILE DISPOSITION: <input type="checkbox"/> HANDLED AND RELEASED <input type="checkbox"/> REF. TO WELFARE AGENCY <input type="checkbox"/> REF. TO ADULT COURT <input type="checkbox"/> REF. TO JUVENILE COURT <input type="checkbox"/> REF. TO OTHER POLICE AGENCY							
83 PARENT OR GUARDIAN (LAST, FIRST, MIDDLE NAME)				84 ADDRESS (STREET, CITY, STATE, ZIP)			
85 PARENTS EMPLOYER				86 OCCUPATION			
87 ADDRESS (STREET, CITY, STATE, ZIP)				88 PHONE			
89 DATE AND TIME OF RELEASE				90 RELEASING OFFICER NAME			
91 RELEASED TO:				92 AGENCY/DIVISION			
93 PERSONAL PROPERTY RELEASED TO ARRESTEE <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> PARTIAL				94 PROPERTY NOT RELEASED/HELD AT:			
95 REMARKS (NOTE ANY INJURIES AT TIME OF RELEASE)				96 AGENCY ADDRESS			
97 SIGNATURE OF RECEIVING OFFICER				98 SIGNATURE OF RELEASING OFFICER			
99 CASE #				100 SFX			
101 ARRESTING OFFICER (LAST, FIRST, M.) Jernigan, Wilbert				102 ID #			
103 ARRESTING OFFICER (LAST, FIRST, M.)				104 ID #			
105 SUPERVISOR				106 WATCH CMDR.			

TYPE OR PRINT IN BLACK INK ONLY

ACJIC-34 REV. 10-90

OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

ADDITIONAL ARREST  
NARRATIVE CONTINUED

117 DATE AND TIME OF ARREST

08/23/94 1:00

☒ AM  
☐ PM  
☐ MIL

118 CASE #

9408191-118

119 SFX

B

## 120 ADDITIONAL ARREST INFORMATION

Terrance Robinson was arrested for Attempted Robbery and Capital Murder after evidence revealed he was involved with Oneal Jackson and Corey Nunley.

☐ CONTINUE ON ADDITIONAL SUPPLEMENT

TYPE OR PRINT IN BLACK INK ONLY



Statement of Corey L. Nunley

8-21-94

EXHIBIT "B"

Friday night (8-19-94) approximately 10:00 or 10:15 P.M. I (Corey Nunley) was standing next to the street in front of McLean's talking to Gary Washington. When a saah pulled up. When the car stopped Terrence walked up to the car, the guy asked Terrence about some drugs, Terrence told the guy he didn't have any. Terrence left the car and Oreal Jackson came up and they talked (Oreal & Terrence). After they talked for a few minutes Terrence gave Oreal a pistol. Oreal came to me and said let's ride with these guys, I said no and the driver of the car said two of y'all ain't going to get in my car anyway. Oreal went to the passenger side and started talking to the driver. As they were talking Oreal pulled out a pistol, stuck it in the car, Oreal shouted "give it up man," give it up man. Oreal shot and I ran. While running I looked back and I saw the driver get out shooting. I ran beside an old house until the saah left. Nick Martin and Lorenzo Nunley pulled up, Gary Washington, Oreal Jackson and me jumped on the truck. Once on the truck, Neal said I shot that man in the chest, I shot that nigger. I asked Oreal why did you shoot the man? Oreal said he wouldn't give it up, man he wouldn't give it up. I said man you didn't have to shoot him.

CLV

We rode to Beeline where Neal rinsed his finger off with cold water because he said he got shot in the hand. We rode to my house where Neal was given a hand aid then we went to John Chih.

I UNDERSTAND THAT I HAVE THE FOLLOWING RIGHTS:

That I have the right to remain silent and not make any statement at all, nor incriminate myself.

That anything I say can and will be used against me, my family, or source of law for the offense or offenses concerning which any statement is being made.

That I can have a lawyer of my own choice to be present with me to advise me before and during any time I answer any questions or make any statements.

That if I cannot afford to hire a lawyer, I can request and receive appointment of a lawyer by the proper authority, without cost or charge to me, to be present with me to advise me before and during any time I answer any questions or make any statements.

That I stop making any statement and stop making any statements at any time I choose to.

That no law enforcement officer can punish me for anything I say in any statement or for anything I choose for him to do so.

I want to talk to a lawyer before or during any questioning or statements I give. I understand my right to remain silent and in the advice of a lawyer. I make the attached signed statement.

I understand that at any time during the course of the interview that I could stop answering questions or not answer any questions or not I had already answered the questions made some statements, and call for the presence of an attorney to advise me before making any further statements.

I certify that the attached signed statement was made by me, the undersigned, of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion or offer of favor, without bribery, and without influence by any person or persons.

I read this page, and the other page(s) of the attached signed statement, which is made of, consisting of 62 pages, each page of which contains my signature and corrections, my initials, and I certify that the facts contained therein are true and correct. I certify that no law enforcement officer tried to prevent me from making any statement, and any request that the attached signed statement be stopped, nor at any time during the interview did I request for the presence of a lawyer.

This statement was completed at Beeline, AZ, on 05/11/2006.

Signature: [Signature]

Signature: [Signature]

Signature: [Signature]

Signature: [Signature]

6.23.95

## WAIVER OF COUNSEL

Sent 5 on 12-9

EXHIBIT "C"

PLACE 30 yrs + Testify/TTDATE not left w/o P orTIME E Chair

Before we ask you any questions, you must understand your rights:

1. You have the right to remain silent.
2. Anything you say can and will be used against you in court.
3. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.
4. If you cannot afford a lawyer, one will be appointed without cost to you before any questioning if you wish.
5. If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time you wish.

## WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed

J O'Neal Jackson

Date

12-09-94

WITNESS

[Signature]

Office of the District Attorney  
3rd Judicial Circuit

PAGE 1 OF 1 46

NAME (Last, First, Middle) <b>Jackson, O'Neal</b>					FILE NUMBER	
ALIAS (ES) / NICKNAME (S)		DATE <b>12-9-94</b>	STTS M <b>WE</b>	TIME <b>11:20</b>	PLACE OF INTERVIEW <b>D A's Office</b>	
HOME ADDRESS					HOME PHONE	
NAME AND ADDRESS OF EMPLOYER					BUSINESS PHONE	
RACE <b>B</b>	SEX <b>M</b>	DOB <b>10-16-78</b>	POB	SSN	DLN	

## STATEMENT

TERRANCE Robinson told me and Corey Munky that he was going to show us how to do A Real Robbery. Two Black males pulled up. MB and Corey got in the car. We both got out. I went to the passengers side. Corey went to the rear of the drivers side. We got into an Argument with the two Black male. I had a 380 and started shooting. the driver of the car also shot. I gave the gun to Terrance Robinson the same Night that this occurred.

Witnessed. Ronald Bell Signed. X O'Neal Jackson

SUBJECT <b>X</b>	VICTIM ( )	WITNESS ( )	DATE ENDED <b>12-09-94</b>	TIME ENDED	INTERVIEW CONDUCTED BY <b>Inv. Ronald Bell</b>
RIGHTS GIVEN BY:					



## ALABAMA UNIFORM ARREST REPORT

2 No 2 No

OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

1 ORI #		2 AGENCY NAME		3 CASE #		4 SFX	
0090100		Union Springs Police Dept.		940819-18			
5 LAST, FIRST, MIDDLE NAME				6 ALIAS AKA			
Jackson, Oneal				Neal			
7 SEX		8 RACE		9 EYE		10 HAIR	
M		B		Brn		Blk	
11 WEIGHT		12 HEIGHT		13 SKIN		14 SCARS	
165		6'1"		Med		Hands	
15 PLACE OF BIRTH (CITY, COUNTY, STATE)				16 SSN		17 DATE OF BIRTH	
Macon County				421-06-5858		10/16/78	
18 AGE		19 MISCELLANEOUS ID #		20 DL #		21 ST	
16							
22 DL #		23 ST		24 FBI #			
25 IDENTIFICATION COMMENTS		26 HENRY CLASS					
		27 NCIC CLASS					
28 RESIDENT		29 HOME ADDRESS (STREET, CITY, STATE, ZIP)		30 RESIDENCE PHONE		31 OCCUPATION (BE SPECIFIC)	
NON-RESIDENT		13 Cherry Laurel		738-3693		Student	
32 EMPLOYER (NAME OF COMPANY/SCHOOL)				33 BUSINESS ADDRESS (STREET, CITY, STATE, ZIP)			
Bullock County High				Old Sardis Road Union Spas, A			
34 LOCATION OF ARREST (STREET, CITY, STATE, ZIP)				35 ARRESTED FOR YOUR JURISDICTION?			
				YES NO			
36 CONDITION OF ARRESTEE				37 RESIST ARREST?		38 INJURIES?	
1 DRUNK 2 DRINKING 3 SOBER 4 DRUGS				1 YES 2 NO		1 NONE 2 OFFICER 3 ARRESTEE	
39 ARMED?				40 DESCRIPTION OF WEAPON			
1 Y 2 N				1 HANDGUN 2 RIFLE 3 SHOTGUN 4 OTHER FIREARM 5 OTHER WEAPON			
41 DATE OF ARREST		42 TIME OF ARREST		43 DAY OF ARREST		44 TYPE ARREST	
082294		1100		S M T W T F S		1 ON VIEW 2 CALL 3 WARRANT	
45 CHARGE-1		46 UCR CODE		47 CHARGE-2		48 UCR CODE	
1 FEL 2 MISO				1 FEL 2 MISO			
Attempted Robbery				Capitol Murder			
49 STATE CODE/LOCAL ORDINANCE		50 WARRANT #		51 DATE ISSUED		52 STATE CODE/LOCAL ORDINANCE	
				M D Y			
53 CHARGE-3		54 UCR CODE		55 CHARGE-4		56 UCR CODE	
1 FEL 2 MISO				1 FEL 2 MISO			
57 STATE CODE/LOCAL ORDINANCE		58 WARRANT #		59 DATE ISSUED		60 STATE CODE/LOCAL ORDINANCE	
				M D Y			
61 ARREST DISPOSITION		62 IF OUT ON RELEASE		63 ARRESTED WITH (1) ACCOMPLICE (FULL NAME)			
1 HELD 2 TOT-LE 3 BAIL 4 RELEASED		WHAT TYPE?		Corey L. Nunley			
				64 ARRESTED WITH (2) ACCOMPLICE (FULL NAME)			
				Terrence Robinson			
65 VYR		66 VMA		67 VMO		68 VST	
69 VCO TOP		70 VCO BOTTOM		71 TAG #		72 LIS	
73 VIN		74 IMPOUNDED?		75 STORAGE LOCATION/IMPOUND #			
		1 YES 2 NO					
76 OTHER EVIDENCE SEIZED/PROPERTY SEIZED		77 CONTINUED IN NARRATIVE					
78 JUVENILE		79 HANDLED AND RELEASED		80 REF. TO WELFARE AGENCY		81 REF. TO ADULT COURT	
DISPOSITION:		1 HANDLED AND RELEASED 2 REF. TO JUVENILE COURT 3 REF. TO OTHER POLICE AGENCY		4 REF. TO WELFARE AGENCY 5 REF. TO ADULT COURT		82 RELEASED TO	
83 PARENT OR GUARDIAN (LAST, FIRST, MIDDLE NAME)		84 ADDRESS (STREET, CITY, STATE, ZIP)		85 PHONE		86 PHONE	
				( )		( )	
87 PARENTS EMPLOYER		88 OCCUPATION		89 ADDRESS (STREET, CITY, STATE, ZIP)		90 PHONE	
						( )	
91 DATE AND TIME OF RELEASE		92 RELEASING OFFICER NAME		93 AGENCY/DIVISION		94 ID #	
M D Y : 1 AM 2 PM							
95 RELEASED TO:		96 AGENCY/DIVISION		97 AGENCY ADDRESS			
98 PERSONAL PROPERTY RELEASED TO ARRESTEE		99 PROPERTY NOT RELEASED/HELD AT:		100 PROPERTY #			
1 YES 2 NO 3 PARTIAL							
101 REMARKS (NOTE ANY INJURIES AT TIME OF RELEASE)		102 SIGNATURE OF RECEIVING OFFICER					
		103 SIGNATURE OF RELEASING OFFICER					
		104 CASE #					
		105 SFX					
106 CASE #		107 SFX		108 CASE #		109 SFX	
110 ARRESTING OFFICER (LAST, FIRST, M.)		111 ARRESTING OFFICER (LAST, FIRST, M.)		112 ID #		113 SUPERVISOR	
Jernigan, Wilbert		7				ID #	
						114 WATCH CMOR.	
						ID #	

TYPE OR PRINT IN BLACK INK ONLY

ACJC-34 REV. 10-

OFFICER WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

ADDITIONAL ARREST  
NARRATIVE CONTINUED

117 DATE AND TIME OF ARREST

08/22/94

11:00

☒ AM  
☐ PM  
☐ MIL

118 CASE #

941081191-118

119 SFX

1

120 ADDITIONAL ARREST INFORMATION

Oneal Jackson was arrested for Attempted Robbery and Capitol Murder after evidence revealed he was involved with Robert Grubbs murder.

NARRATIVE

NARRATIVE

NARRATIVE

☐ CONTINUE ON ADDITIONAL SUPPLEMENT

TYPE OR PRINT IN BLACK INK ONLY

VOLUNTARY STATEMENT  
(NOT UNDER ARREST)

EXHIBIT "D"

I, Jawanda Shepherd, am not under arrest for, nor am I being detained for, any criminal offenses concerning the events I am about to make known to Captain Wilbert Jernigan. Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 16 years of age, and I live at 605 Martin L. King, Jr Blvd Union Spgs, AL.

On Friday night (8-19-94) I (Jawanda Shepherd) picked up Terrence Robinson on M. L. K. Blvd in front of McLowman Service Station and I drove him to Greg Tellis' house. Once at Greg's house, I blew the horn and Greg came out. ~~Greg~~ Terrence got out of the car and they (Greg & Terrence) talked for about five or ten minutes. Terrence got back into the car, we rode around for about five minutes and then I took him back to McLowman Service Station.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

Dated at Union Springs Police Dept., this 25 day of August, 19 94.

WITNESS: Keesha L. Shepherd Jawanda Shepherd  
Signature of person giving voluntary statement.

WITNESS: \_\_\_\_\_

MR. TERRENCE ROBINSON # 182958  
POST OFFICE BOX 56  
ELMORE, ALABAMA 36025  
AUGUST 10th, 2000

TO: PRESIDING CIRCUIT JUDGE  
RE:CC-94-74.60  
FROM: TERRENCE ROBINSON

TO THE HONORABLE JUDGE GREETINGS;

I file this complaint with your Court for investigation of justice which was denied to this writer. I have come to learn by way of evidence which was knowingly withheld, by the District Attorney, Police Officers, and other State Agents involved with the case which was made against me. The true facts are that the District Attorney to get more convictions for one single act to which was done independently by O'Neal Jackson, and or the person that was driving the car, Willie James Bethune.

The writer has filed a timely Rule 32, and I am requesting that before the State be ordered to respond that, I be granted full discovery which is being drafted, and also to amend the Rule 32 petition which is coming before this Court for review.

The truth can't be ignored when all signatures, and Police Officers name appear in the reports, and the investigation to which was done. The very indictment itself is illegal, where I

page 2

did not shoot nor kill Mr. Grubbs. The evidence which went before the Grand Jury was false against this writer, and the facts which were sworn to before the Grand Jury was actual perjury.

Facts which I received from now District Court Judge Bowden from the files he had of my case, reveals there was solid concrete evidence of my innocence. I don't know your position in this matter but I am also contacting the Alabama Court of Criminal Appeals of the wrong doing which was done, and in that they had the case before them for review, and did not consider vital evidence which was before them that requires complete rendering of justice altogether.

I am in prison this day merely because I am a Black Man, who did not have the benefit of justice. I don't hide any facts at this time, nor am I afraid to speak the truth. I trust nobody but God above to make the truths be brought forth, and what ever publicity I need I am writing all News, and local News Papers to let it be known what took place, and how the wrong was done in Union Springs, Alabama.

I would request that you contact Judge Bowden, and ask him about the matter since he was Counsel, and Ms. Hicks also. I am writnig each party who had a hand in not bringing forth the truth

page 3

and taking a stand for righteousness in my behalf. It is a gross wrong to place an innocent man behind prison walls. I await to hear from you as soon as possible.

Sincerely  
*Terrence Robinson*  
Terrence Robinson

IN THE CIRCUIT COURT OF BULLOCK COUNTY,  
ALABAMA

TERRENCE ROBINSON,

Petitioner

VS.

CASE NO. CC-94-74

STATE OF ALABAMA

Respondents

---

MOTION FOR JUDGE TO SET ASIDE AND VACATE ORDER

Comes Now, Terrence Robinson, and request the Honorable Judge to reconsider the order which was entered, August 25, 2000. The Judge has complete jurisdiction to vacate the order which was entered, and to require the State to respond to the merits of the allegations which are now before this Court. There exist a great miscarriage of justice, in that Petitioner is actually innocent of the crime to which he has been found guilty of, and there exist evidence which Respondents have in their possession which will prove true facts to prove that Petitioner is innocent.

The Motion is well taken where the true issues which went before the Alabama Criminal Court of Appeals were not presented by Counsel to show the great miscarriage of justice, that took place.

*Great*

page 2

The only means to address and resolve the true facts is by way of Rule 32. The following in support by law.

1. Counsel Robert L. Bowden on August 3rd, 2000 mailed Petitioner exhibits, (1) statements, (2) Forsenic Reports, and other medical evidence, and (3) Investigative reports.

The information which was delivered by Staton legal mail was Petitioner's first of knowing the newly discovered evidence which was filed in this Court, about the time the Judge had issued his order denying the Rule 32. There was no way Petitioner could have known of these facts before now, where Counsel did not reveal nor did he advise Petitioner of any facts that he had by way of actual discovery.

2. Petitioner can show and prove by Alabama Department Of Corrections Legal Mail records that Attorney Bowden has never made available before August 3, 2000 the documents which are before this Court by way of exhibits to prove Newly Discovered Evidence. [ See attached exhibit for proof "AA". ]

3. Petitioner can show and prove that the Court never had any jurisdiction to have him before Circuit Court. There were never any juvenile transfer hearing which was conducted. Second the entire arrest, and interrogation was done in violation of all juvenile rights which Petitioner must receive.



page 3

4. Respondents have in their possession records, documents, and investigative evidence which proves that Terrence Robinson is innocent of any charge for Murder, Capitol Murder, and any other form of Murder.

(A). The State has evidence by way of O'Neal Jackson himself that Terrence Robinson was not the one who fired the shot and killed mr. Grubbs. O'Neal Jackson is the one who has told District Attorney, Investigator, and other State Officals that he and Nunley were the ones who went to the car with guns. It was made known that each and every party who was in close proximity and was apart of the scheme, saw and watched O'Neal Jackson, and the other party , Mr. Bethune have a gun battle, where O'Neal Jackson walked away and bragged he killed, he shot that person. The State has withheld evidence which they personally knows that implicates O'Neal Jackson as the sole person who was saying that he shot the man in his chest.

(B). The State has facts which they have concealed that proves that Terrence Robinson did not stay at the scene, but after seeing that O'Neal Jackson and others were about to engage in criminal acts Terrence Robinson left and ran away.

The State has facts which support there were no criminal intent by Terrence Robinson, when at all times this Petitioner reported

page 4

what had taken place to the Police Officers in Union Springs.

5. The Indictment which was returned was product of illegal acts, and there was no challenge made of the indictment prior to this Petitioner being placed on trial.

(A). Counsel knew that the indictment was illegal and did nothing to protect the rights of this Petitioner.

(B). Counsel knew that during trial there was constructive amendment of the indictments. Petitioner was on trial for Robbery, Murder, and Capitol Murder all in one charge. Counsel did nothing to protect the rights of Petitioner to what he was going to have to defend against. Counsel didn't file any Motion to Dismiss, and to have the State elect which charge they were going to try by way of indictment.

Wherefore in that discovery, and amending the Petition is necessary to prove the issues, and allegations that warrants a New trial, and or the complete releasing of Petitioner from prison, the Judge has full authority to vacate the order which was entered.

Respectfully

Terrence Robinson  
TERRENCE ROBINSON  
POST OFFICE BOX 56  
ELMORE, ALABAMA 36025  
AUGUST 29, 2000

**IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA**

TERRANCE ROBINSON.

Petitioner,

**VS.**

STATE OF ALABAMA.

Respondent.

CASE NO. CC-94-74.61

(Prior Rule 32 Case No. CC-94-74.60)

## ORDER

This matter coming before this Court on Petitioner's Motion for Judge To Set Aside and Vacate Order, dated August 25, 2000, and the Court having reviewed the Order and other documents in the Courts file, makes the following finding of fact and conclusions of law:

The Court finds that the Judge to whom this Petition was directed, Burt Smithart, and the Judge signing the Order, dated August 25, 2000, was counsel for a Co-Defendant, in the trial of this case, Corey Nunley, Case Nos. CC-94-76 and CC-94-77.

The Court did not consider the potential conflict at the time of reviewing the Petition prior to signing the Order, dated August 25, 2000.

The Court finds that the Order, dated August 25, 2000, should be set aside for the reasons set forth above and not for the reasons set forth by the Petitioner in his Motion To Set And Vacate Order. The Court further finds that the Petition filed August 11, 2000 and the allegation and arguments set forth in Motion For Judge To Set Aside And Vacate Order, be assigned to the District Judge of Bullock County, Michael Emfinger, for his consideration.

It is **THEREFORE ORDERED and ADJUDGED** that the Order dated August 25, 2000, is hereby set aside for the reasons set forth above.

It is further **ORDERED** that District Judge Michael Emfinger shall consider the Petition filed August 11, 2000 and any allegations contained in the Motion To Set Aside Order, and make appropriate ruling upon consideration of the Petition, response by the State, and all other matters

contained in the Court file, and said District Judge shall consider all other matters that might come before the Court in regard to Terrance Robinson, Case Nos. CC-94-74.60, CC-94-74.61.

**ORDERED** this 11<sup>th</sup> day of September, 2000.



Burt Smithart, Circuit Judge  
Third Judicial Circuit

cc: Judge Michael Emfinger  
District Attorney Boyd Whigham  
Clerk of Courts, Wilbert Jernigan  
Terrance Robinson

IN THE CIRCUIT COURT OF BULLOCK COUNTY,  
ALABAMA

*Granted*  
*(10-23-00)*  
*Judge Emman*

TERRANCE ROBINSON,  
Petitioner

VS.

CASE NO. CC-94-74.61

STATE OF ALABAMA  
Respondent

MOTION TO GRANT CONTINUANCE AND AFFIDAVIT  
IN SUPPORT, WHERE NEWLY DISCOVERED EVIDENCE EXIST

Comes Now, Terrance Robinson, and petitions the Honorable Judge to consider the Motion now before this Court. The Judge has issued an order dated August 11, 2000 to vacate, and for this Judge to consider the Rule 32. In that Alabama law provides the right to amend, based on Rule 32.7(d), and case law supports that where a Court has judicial authority a Motion to Amend should be granted. MARKES V. STATE, 739 SO.2d 1141 (Ala. Crim. App. 1999) id at 1142. Petitioner has actual innocenec which can be proven, and facts which were made known by Counsel who in fact supplied Petitioner with facts and evidence to which Petitioner had no knowledge of at trial nor before trial. The Motion should be granted to allow 14 days for the amending of the petition to be made.

page 2

1. Petitioner's Rule 32 has exhibits which proves that actual innocence exist in his case.
2. A continuance of 14 days will not prejudice the State in any form, nor obstruct the orderly process of Court.

Wherefore in that the dismissal has been set aside, and there exist at this time facts to prove that illegal acts were done against this Petitioner to include him in a crime that he had nothing to do with, and there's evidence that independent acts were done which caused the death of said victim, 14 days will not delay nor hinder any party in this action.

#### AFFIDAVIT OF PETITIONER

I swear before the below named Notary that I am innocent of the crime of Murder and that I never did any act to cause the death of Mr. Grubbs in Bullock County, Alabama.

I have other evidence which I am preparing to provide before this Court to prove actual innocence, and evidence which I did not have at trial, nor at appeal. I honestly ask for the Judge to consider that under Newly Discovered Evidence, I am not time barred by a Two Year limitation period.

Terrance Robinson  
TERRANCE ROBINSON

SWORN AND SUBSCRIBED TO BEFORE ME THIS

14 DAY OF Sept

2000.

[Signature]  
NOTARY

## IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

Terrance Robinson,  
Petitioner,  
Vs  
State of Alabama  
Respondents.

)  
)  
) Case No. CC-94-74.61  
)  
)

Motion for hearing and appointment  
for Counsel's

Comes now, petitioner, Terrance Robinson, and asking for Counsel's to be appointed to represent his on his issues, justice requires, and the end of justice required on this Motion, that was Granted 10/23/2000. By the Honorable Court.

The trial court granted the petitioner motion for file any additional materials related to Current Rule 32 petition.

Petitioner attached his Indictment True Bill all three of them that was not sign by the Foreman of the Grand Jury, and page from his Transcript page 242 thru 269.

Terrance Robinson

Terrance Robinson

Set Hearing on Mon. Dec. 11<sup>th</sup>  
Motion for appointment of an Attorney  
is denied. 12-1-00  
Judge Emfinger

## IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

Terrance Robinson	)	
Petitioner,	)	
Vs.	)	Case No. CC-94-74.61
State of Alabama	)	Prior Rule 32 Case No. CC-94-74.60
Respondents		

Motion For Relief From Illegal Conviction  
And Illegal Sentence Rule 32.1 A (B)(C)(E)  
Alabama Rules of Court.

Comes now, Petitioner, Terrance Robinson, and filing this motion for Relief from Illegal Conviction and Sentence. As justice so requires and the end of justice required a innocent person to be free from unjust action from Judicial Court, and the State of Alabama Officials.

1. Petitioner was Granted a motion to filed addition Maternal Related to his Current Rule 32. Filing.

2. Petitioner states that Rule 32. 1.(e)(5), adds an element to those which must be shown before a petitioner is entitled to a new trial based on evidence not presented at the Original trial.

The added element is the Requirement that the petitioner establish that he is innocent of the Crime for which he was convicted or establish that he Should not have received the Sentence he did.

3. Petitioner states that his relief should be Granted under Rule 32 accordance to the UNITED STATES CONSTITUTION and State of Alabama Constitution 1901.

Petitioner have A constitutional civil rights 1st 4th, 5th, 6th, 7th, 8th, 9th, 10th, 13th, 14th, Amendment Rights.

4. Petitioner was deprived of his amendments, he was denial effective assistance of counsel's

Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 392, 9 L.ed.2d 799 (1963).

Petitioner was denial effective assistance of counsel's Prior to t Trial the right exists at arraignment. Hamilton v. Alabama. 368 U.S. 52, 82 S.Ct. 157, 7 L.ed.2d 114 [1961]

5. Petitioner was denial effective Assistance of Counsel's at preliminary Coleman v. Alabama, 399 U.S. 1, 90 S.Ct. 1999, 26 L.ed.2d 387 (1970).



6. The burden of proof is upon the petitioner.

The United States Supreme Court, in a very recent decision. *Strickland v. Washington*, U.S. \_\_\_, 104 S.Ct. 2052, 80 L.ed.2d 674 [1984].

Petitioner, explicitly described burden of proof with regard to this claim. First, petitioner must show that counsel's performance was so deficient as to fall below an objection standard of reasonableness. Counsel's Conduct must be Considered within the context of the facts of the particular case and as of the time of the alleged misconduct. Second, Petitioner Must show that counsel deficient Performance prejudiced the defense and deprived petitioner of a fair trial.

Prejudice is shown when, absent the errors, there is a reasonable doubt Respecting Guilt.

Petitioner was prejudiced by counsel failure to object to consolidation for trial Codefendant.

Petitioner violation came from counsel failure to object and filed pretrial motions to Rule 13.3(C), this ruled Required motions to be filed. Also See Rule 18.4(F)(2). The petitioner had a Capital Case

Petitioner was violated under the Jury Instruction on lesser included offense

Petitioner has a constitutional right to be probably indicted.

An accused has a constitutional right to an indictment which puts him on notice of the case the prosecution will present at trial.

See *Kotteakos v. United States*, 328 U.S. 750, 66 S.Ct. 1239, 90 L.ed.2d 975, 976-77 (11th Cir. 1988); *Ex Parte Washington*, 448 So.2d 404 (Ala 1984). The rationale behind the rule prohibiting material

variances between indictments and proof at trial is twofold. Most importantly, the rule insures "that the accused shall be definitely informed as to the charges against him, so that he may be enabled to present his defense and not be taken by surprise by the evidence offered at the trial." *Berger v. United States*, 329 U.S. 295, 62 S.Ct. 629, 630, 79 L.ed. 1314 (1935). Secondly, the rule protects the accused

against subsequent prosecutions for the same offense. *Id.* The Eleventh

Circuit has established a two -

step inquiry when considering allegations of variance between indictment and proof at trial.

"First, the Court must determine whether a material variance did indeed occur; and second, whether [the defendant] suffered substantial prejudice as a result of the variance." United States v. Starrett, 55 F.3d 1525, 15 (11th Cir. 1995).

Petitioner states that he did not have a Grand Jury to indict him accordance to the laws and Rules and Statutes and Sections.

Petitioner was denied a Grand Jury to investigate his Case for Capital Murder or Felony Murder.

See the copy of the TRUE BILL] ~~TWENTY~~

Petitioner was not indicted on two count indictment for Capital Murder 13A-5-40-(a)(17) or Murder 13A-6-2 and 13A-5-40(40)(2)

Petitioner counsel's was incompetency and failure to object to the Grand Jury, and this was prejudicial to the defendant's defense at trial and on direct appeal.

Petitioner states that why the trial was Consolidation Codefendant Corey Nunley Criminal Action No. CC\_94-74 and Criminal Action No. CC-94-76

Petitioner was violated under §13.1 Definitions.  
Indictment, Information, and Complaint

Rule 13.1 contains "definition" of terms which are used in

Rule 13, including definition of "indictment," "information," and "complaint."

An "indictment" is defined as "a written statement charging the defendant or defendants named therein with the commission of an indictable offense, presented to the court by a grand jury, endorsed "A True Bill," and signed by the foreman. An "information" is "a written STATEMENT."

statement charging the defendant or defendants named therein with the commission of an indictable offense, made on oath, signed, and presented to the court by the district attorney, pursuant to Rule 2.29 (e), without action by the grand jury.

Rule 12.8(b) states that "[w]hen an indictment is found, it must be endorsed 'A True Bill' and the indictment must be signed by the foreman." The definition of "indictment" in the Rule is not materially different from the statutory definition: "An 'indictment' is an accusation in writing presented by the grand jury of the county, charging a person with an indictable offense. The distinction between indictments and presentments is abolished." §15-8-1. §15-8-1.

Petitioner been denied his rights to be indicted under the fifth amendment to the United States Constitution which makes the common law rule requiring an indictment mandatory. SMITH V. UNITED STATES, 360 U.S. 1 S. Ct. 991, 38 Fed 2d 1041 (1959) The fifth amendment, which declares that no person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury, does not restrict the states in the prosecution of a capital or infamous crime.

Stokeley v. State, 254 Ala. 534, 49 So.2d 284 (1951). In Alabama, of course, capital offenses can only be charged by indictment. Pitman v. State, 50 Ala. App. 712, 282 So. 2d 332 (Ala. Cr. App. 1973).

Petitioner counsel's was off ineffective assistance under Rules 13.5(b)

13.5(b) and (c)(1). Rules 13.5(b) and (c)(1) make it clear that the proper means of challenging the legality or sufficiency of the indictment is by a motion to dismiss under Rule 15. Rule 13.5(c)(2) provides a requirement that the defect be prejudicial to the defendants and before it will be fatal to a conviction.

66

Petitioner states that under §12.8 Indictment.

Number of grand jurors necessary to indict. Rule 12.8(a) and 12.8(b) are restatements of the requirements of §12-6-204 that at least 12 grand jurors must concur in order to return an indictment, and that it must be endorsed "A True Bill" and signed by the foreman.

The court is trying to present a presentment for the Grand Jury Charge two count indictment: Capital Murder(13A-5-40(a)(17)), and Murder (13A-6-2).

Allegations: Count One One Defendant did with intent to cause the death of another person, cause the death of that person or of another person, to-wit: Robert Charles Junior Grubbs, by shooting him with a gun, said murder being committed by or through the use of a deadly weapon while the victim, Robert Charles Junior Grubbs, was in a vehicle. Count Two: Defendant did, with intent to cause the death of another person, cause the death of that person or of another person, to-wit: Robert Charles Junior Grubbs, by shooting him with a gun.

[Grand Jury No.9].  
Petitioner being denial under 12.12 Empaneling the Grand Jury and Petit Juries.

Rule 12.2,(c)

Petitioner was denied his Constitutional Rights under United States and the State of Alabama Constitution to impartial Grand Jury to investigate the cases of Capital Murder and Felony Murder . Petitioner states under 12.3(d) restates in part present Alabama law and is not exclusive. The function of the grand jury is to make investigations into possible crimes committed within the grand jury's jurisdiction.

## IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

Terrance Robinson )

Defendant )

Vs. )

State of Alabama Officials and )

Officers of the Court )

Case No. CC-94-74.61

STATE OF ALABAMA )

COUNTY ELMORE )

## AFFIDAVIT FOR RELIEF

I, Terrance Robinson, was arrested in Union Springs, Alabama on a Capital Murder and a felony Murder charge and was indicted on both charges.

I Terrance Robinson states that I am over the age of eighteen years old and competency to testify in this matter.

I Terrance Robinson is actual innocent or innocence of the charge or charges of Murder, and Capital Murder.

The True Bill was insufficient to support a Grand Jury Charge or Charges for Capital Murder or Felony Murder Under Code of Alabama

1975. Defendant was denied a Grand Jury in the State of Alabama Court, Union Springs Alabama. Circuit Court of Bullock County

The defendant contends that his counsel's performance was ineffective for not forcing the state to elect which instance of Murder they were prosecuting him for.

Defendant states that As this court has stated:

"In Deason v. State, 363 So.2d 1001 (Ala. 1978), The Alabama Supreme Court condemned the state's practice of charging in one count indictment a single offense and then presenting evidence of different offenses that arose out of separate transactions. In addressing the issue of election, the Court wrote as follows:

""In Watkins v. State,

36 Ala. App. 711, 63 So.2d 293 (1953), Judge Harwood summed up the require-

ment: ""The doctrine of election operates to protect a defendant from being prosecuted for more than one offense in the same count of indictment. Where the evidence discloses two or more offenses growing out of distinct and separate transactions, a court should grant a timely motion to require the state to elect."

(citation omitted)

""

....

The petitioner contends that the trial court erred in submitting the two seprate incidents of Murder and Capital Murder to the jury where none of the incident, to the jury were specified as that upon which a conviction was sought under the indictment at <sup>ISSUE</sup> issue. He argues that the jury recived no guidance or indication whatsoever as to which incidents were the subject of this indictment, and which incidents were admitted merely baccuse they were probative of his commission of the offense charged. Petitioner argues specifically that the trial judge should have compelled the State to elect which incident it was seeking to prove under the indictment.

Terrence Robinson

Sworn to and Subscribed before me this day  
of 7th November 2000

My commission expires 3-2-2003

J. J. C. Burnett  
Notary Public State At Lagre

Bail in this case is fixed at

Dollars.

Judge of the Circuit Court.

DEFENDANT'S ADDRESS:

SID #:

WITNESSES CONT.:

Gregory L. Tellis  
224 Underwood Avenue  
Union Springs, Alabama 36089

Tawanda Shepherd  
605 Martin Luther King Blvd.  
Union Springs, Alabama 36089

Gary F. Washington  
614 Bronson Street  
Union Springs, Alabama 36089

Dr. Allan Stilwell  
Dept. of Forensic Sciences  
Montgomery, Alabama 36124

No.

THE STATE

vs.

TERRENCE ROBINSON, a/k/a  
TERRANCE ROBINSON  
FOR

TWO-COUNT INDICTMENT:

Capital Murder (13A-5-40(a)(17))  
Murder (13A-6-2)

*(Vehicle)*  
*Plain Murder*

WITNESSES:

Willie James Bethune  
807 Madison Street  
Eufaula, Alabama 36027

Capt. Wilbert Jernigan  
Union Springs Police Dept.  
Union Springs, Alabama 36089

No Prosecutor

A TRUE BILL

Foreman of Grand Jury.

G. J. No. 9

Presented in open Court by the Foreman of  
the Grand Jury, in the presence of 17  
other members of the Grand Jury, this  
day of November A.D., 1994

Clerk of the Circuit Court of Bullock County

Filed this 29th day of  
November 1994

Clerk of the Circuit Court of Bullock County

Bail in this case is fixed at

Dollars.

Judge of the Circuit Court.

DEPENDANT'S ADDRESS:

SID #:

WITNESSES CONT.:

Gregory L. Tellis  
224 Underwood Avenue  
Union Springs, Alabama 36089

Tawanda Shepherd  
605 Martin Luther King Blvd.  
Union Springs, Alabama 36089

Gary F. Washington  
614 Bronson Street  
Union Springs, Alabama 36089

Dr. Allan Stilwell  
Dept. of Forensic Sciences  
Montgomery, Alabama 36124

No.

THE STATE

vs.

TERRENCE ROBINSON, a/k/a

TERRENCE ROBINSON  
FOR

TWO-COUNT INDICTMENT:

Capital Murder (13A-5-40(a)) (17) (Vehicle)  
Murder (13A-6-2) Plain Murder

WITNESSES:

Willie James Bethune  
807 Madison Street  
Eufaula, Alabama 36027

Capt. Wilbert Jernigan  
Union Springs Police Dept.  
Union Springs, Alabama 36089

No Prosecutor

A TRUE BILL

Foreman of Grand Jury.

G. J. No. 9

Presented in open Court by the Foreman of  
the Grand Jury, in the presence of 17  
other members of the Grand Jury, this 29  
day of November A.D., 1994

Clerk of the Circuit Court of Bullock County

Filed this 29th day of  
November 1994

Clerk of the Circuit Court of Bullock County



Bail in this case is fixed at

Dollars.

Judge of the Circuit Court.

DEFENDANT'S ADDRESS:

SID #:

WITNESSES CONT.:

Gregory L. Tellis  
224 Underwood Avenue  
Union Springs, Alabama

Tawanda Shepherd  
605 Martin Luther King Blvd.  
Union Springs, Alabama

Gary F. Washington  
614 Bronson Street  
Union Springs, Alabama

Dr. Allan Stilwell  
Dept. of Forensic Sciences  
Montgomery, Alabama

No.

THE STATE

vs.

TERRENCE ROBINSON, a/k/a  
TERRANCE ROBINSON

FOR

Capital Murder

(13A-5-40(a)(2))

WITNESSES:

Willie James Bethune  
807 Madison Street  
Eufaula, Alabama 36027

Capt. Wilbert Jernigan  
Union Springs Police Dept.  
Union Springs, Alabama

No Prosecutor

A TRUE BILL

Foreman of Grand Jury.

G. J. No. 9-A

Presented in open Court by the Foreman of  
the Grand Jury, in the presence of 17  
other members of the Grand Jury, this  
day of November A.D., 1994

Clerk of the Circuit Court of Bullock County

Filed this 29th day of  
November 1994

Clerk of the Circuit Court of Bullock County

B-94-105

## P R E S E N T M E N T

GRAND JURY NO. 9

STATE OF ALABAMA

v.

CHARGE: TWO-COUNT INDICTMENT:

TERRANCE ROBINSON

Capital Murder (13A-5-40 (a))(17)

a/k/a TERRANCE ROBINSON

Murder (13A-6-2)

RACE/SEX B/M DOB: 07/28/77

DATE OF OFFENSE: 08/19/94

AGE AT TIME OF OFFENSE: 17

VICTIM(S): Robert Charles Junior Grubbs

WITNESSES: Willie James Bethune

Capt. Wilbert Jernigan

Go-SON - Gregory Lashon Tellis

Tawanda Shepherd

DEFENDANT'S ATTORNEY:

Willie James Mathews

Gary F. Washington

CASE AGENCY: Union Springs Police Department

DATE OF ARREST:

PROPERTY:

ROBERT GRUBBS - ON

FSA ALBANY ROAD - LEXINGTON

HIDEOUT - 2.000000

HAVE PROOF?

FEDERAL NIGHT STATION

NER: VALUE:

LEGATIONS: Count One: Defendant did, with intent to cause the death of another person, cause the death of that person or of another person, to-wit: Robert Charles Junior Grubbs, by shooting him with a gun, said murder being committed by or through the use of a deadly weapon while the victim, Robert Charles Junior Grubbs, was in a vehicle. Count Two: Defendant did, with intent to cause the death of another person, cause the death of that person or of another person, to-wit: Robert Charles Junior Grubbs, by shooting him with a gun.

DO HEREBY CERTIFY THAT THE GRAND JURY RETURNED A true BILL OF INDICTMENT AGAINST THE ABOVE-NAMED DEFENDANT FOR THE OFFENSE(S) OF

Capital Murder/murder as above

FOREPERSON

DATE

11-28-94

DO HEREBY CERTIFY THAT THE GRAND JURY REQUESTS THE COURT TO CONTINUE THE ABOVE-STYLED CASE TO THE NEXT TERM OF GRAND JURY.

FOREPERSON

DATE

FILE #:

PRESENTMENT

GRAND JURY NO. 9-A 73

TE OF ALABAMA

CHARGE: Capital Murder

(13A-5-40(a)(2))

ROBERT ROBINSON

/a TERRANCE ROBINSON

E/SEX B/M DOB: 07/28/77

E OF OFFENSE: 08/19/94

AT TIME OF OFFENSE: 17

TIM(S): Robert Charles Junior Grubbs

WITNESSES: Willie James Bethune

Capt. Wilbert Jernigan

Gregory L. Tellis

Tawanda Shepherd

Gary F. Washington

DEFENDANT'S ATTORNEY:

E AGENCY: Union Springs Police  
Department

TE OF ARREST:

PROPERTY:

ER: VALUE:

LEGATIONS: Defendant did, with intent to cause the death of another person, cause the death of that person or of another person, to-wit: Robert Charles Junior Grubbs, by shooting him with a gun, said murder being committed during robbery in the first degree or an attempt thereof committed by the Defendant.

O HEREBY CERTIFY THAT THE GRAND JURY RETURNED A true BILL OF INDICTMENT INST THE ABOVE-NAMED DEFENDANT FOR THE OFFENSE(S) OF as above

Jaqueline Elzie  
FOREPERSON

11-28-94  
DATE

O HEREBY CERTIFY THAT THE GRAND JURY REQUESTS THE COURT TO CONTINUE THE VE-STYLED CASE TO THE NEXT TERM OF GRAND JURY.

FOREPERSON

DATE

## THE STATE OF ALABAMA

## Bullock County

Circuit Court of Bullock County,

Fall Term, A.D., 19 94

The Grand Jury of said County charge that, before the finding of this indictment,

TERRENCE ROBINSON, a/k/a TERRANCE ROBINSON, whose name to the Grand Jury is otherwise unknown, did, with intent to cause the death of another person, cause the death of that person or of another person, to-wit: Robert Charles Junior Grubbs, by or through the use of a deadly weapon, to-wit: by shooting him with a gun, while the victim, Robert Charles Junior Grubbs, was in a vehicle, in violation of Section 13A-5-40(a)(17) of the Code of Alabama, 1975, as amended,

COUNT TWO

The Grand Jury of said County further charge that before the finding of this Indictment, TERRENCE ROBINSON, a/k/a TERRANCE ROBINSON, whose name to the Grand Jury is otherwise unknown, did with intent to cause the death of another person, cause the death of that person or of another person, to-wit: Robert Charles Junior Grubbs, by shooting him with a gun, in violation of Section 13A-6-2 of the Code of Alabama, 1975, as amended,

against the peace and dignity of the State of Alabama.

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1 you, based on the evidence in this case, to find Corey  
2 Nunley guilty of murder, and to find Terrence Robinson  
3 guilty of murder, because they did it just as well as the  
4 person that actually pulled the trigger, O'Neal Jackson,  
5 that killed Junior Grubbs.

6 Thank you.

7 COURT'S ORAL CHARGE

8 BY JUDGE ROBERTSON:

9 Ladies and gentlemen, it has come time in  
10 the case for me to charge you and tell you what the law is  
11 regarding these particular cases. You have heard two cases  
12 tried together today at the same time. You heard a case  
13 against Corey Nunley and Terrence Robinson tried at the  
14 same time. You will have to make decisions in both of  
15 those cases. The indictments are the same in both cases  
16 with the exception of the names, and I'll read you the  
17 indictment in the case against Terrence Robinson or the  
18 count they are traveling on.

19 "The Grand Jury of said County, charge that  
20 before the finding of this indictment, Terrence Robinson,"  
21 and also in the other indictment they named Corey Nunley,  
22 Jr., "Whose name is to the Grand Jury otherwise unknown,  
23 did with intent to cause the death of another person cause  
24 the death of that person or another person: to-wit: Robert  
25 Charles Junior Grubbs, by shooting him with a gun in

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1 violation of Section 13A-6-2 of the Code of Alabama, 1975,  
2 as Amended, against the peace and dignity of the State of  
3 Alabama." Now, that indictment, and that indictment in the  
4 other case, charges both of these defendants with the crime  
5 of murder. And, the issue that is presented to you for  
6 your consideration and for your determination is, of  
7 course, were they guilty, and I'll talk to you later in my  
8 charge about the specific crime of murder; but, under the  
9 section of law that they are proceeding under, it has three  
10 or four different kinds of murder, and one of them is  
11 felony murder, and that is what I will talk to you about a  
12 little later. That says if a person is in the process of  
13 committing certain felonies, robbery, which is one, and  
14 somebody gets killed, that they are responsible. They  
15 would be guilty of murder even though they didn't go there  
16 with the express intention of killing them, if they kill in  
17 the commission of a felony, in this instance robbery.  
18 There is also a statute that talks about aiding and  
19 abetting. It says "Anybody that aids and abets a person  
20 committing a felony is also guilty as if he committed the  
21 felony himself." So, the issues that you will be called on  
22 to determine is whether or not the deceased, Mr. Grubbs,  
23 was killed in the commission of a felony, namely robbery,  
24 and, if so, were these gentlemen, that are the defendants  
25 in this case, were they guilty of aiding and abetting or

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1 were they a participant and they aided and abetted in the  
2 commission of this crime or the attempted commission of  
3 robbery in which a person was killed, but we will talk  
4 about that later on. Before I talk to you about that  
5 specific charge I want to tell you some general principles  
6 of criminal law that are in effect in this case as well as  
7 all other criminal cases.

8 Now, the lawyers have talked about penalty,  
9 and folks in the penitentiary, and folks in the electric  
10 chair, and all that kind of stuff. Well, it would be my  
11 duty, the judge's duty, in this case to set whatever  
12 sentence these gentlemen got after due consideration would  
13 be presented at a sentencing hearing, at which time  
14 everybody would have an opportunity to participate. It is  
15 not your duty to sentence, and you should not be concerned  
16 with any sentence that either of these defendants may  
17 receive should you find them guilty of the crime of which  
18 they are charged.

19 Now, both of these defendants in this case  
20 have entered a plea of not guilty. By that they say, "I'm  
21 not guilty of the crime of murder," which is charged in the  
22 indictment. Now, Ladies and Gentlemen, when a defendant is  
23 placed on trial and charged with the commission of a crime,  
24 the law says that he or she is presumed to be innocent of  
25 that offense. These defendants enter these trials with the

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1 presumption of innocence in their favor, and it is a fact  
2 which is due to be considered by you as evidence and should  
3 not be disregarded. This presumption of innocence remains  
4 with the defendant during the trial of the case until the  
5 State of Alabama has proved to you beyond a reasonable  
6 doubt that the defendant is guilty of the crime with which  
7 he or she is charged.

8 Now, the state, as I have told you, has the  
9 burden of proving the guilt of the Defendant beyond a  
10 reasonable doubt, and this burden remains on the State  
11 throughout the case. These defendants nor any defendants  
12 in any criminal case anywhere are ever required to prove  
13 their innocence. Now, as I have just stated to you, the  
14 burden is beyond a reasonable doubt. Then the question  
15 then arises, "Well, what does the words "reasonable doubt"  
16 mean?" Well, reasonable doubt is pretty much  
17 self-explanatory, and efforts by judges don't always  
18 clarify it, but it may help you some for me to tell you  
19 that a doubt which would justify an acquittal in these  
20 cases, and that being a finding of not guilty, must be an  
21 actual doubt. If, after considering all of the evidence in  
22 this case, you have an abiding conviction of the truth of  
23 the charge, then you are convinced beyond a reasonable  
24 doubt, and it would be your duty to find the defendant  
25 guilty. The reasonable doubt which entitles a defendant to



1 a finding of not guilty is not a conjectural or speculative  
2 doubt but a reasonable doubt arising from the evidence and  
3 remaining after a careful consideration of the testimony  
4 such as reasonable, fair-minded, and conscientious people  
5 would have under the circumstances.

6 Now, you will notice that the State is not  
7 required to prove the defendants' guilt beyond all doubt  
8 but simply beyond all reasonable doubt. If after comparing  
9 and considering the testimony in this case you cannot say  
10 that you have an abiding conviction of the defendant's  
11 guilt, then you're not convinced beyond a reasonable doubt  
12 and you should find the defendants not guilty.

13 Now, I read to you the indictment in these  
14 cases. The indictment in these cases is not evidence  
15 against either defendant, it is merely the formal method  
16 used under our constitution where a person is charged with  
17 a crime and placed on trial. It provides no proof nor  
18 presumption nor inference that the defendant is guilty.  
19 Now, in reaching your verdict you should not let any  
20 emotion interfere with your decision, not any love or hate  
21 or sympathy or pride or prejudice you might have against  
22 any of the participants in the trial, whether it be  
23 lawyers, whether it be defendants, whether it be witnesses.  
24 Let no emotion enter into your findings. Make your  
25 findings based on what the true facts of the case are as

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1 you find them to be, and apply those true facts to the law  
2 as I'm giving it to you now.

3 Now, let's talk for a minute about the crime  
4 of murder with which these defendants are charged. The  
5 defendants are charged with murder. Under the Code of  
6 Alabama, Code Section 13A-6-2, and the particular section  
7 of the Code under which they are charged or under which I'm  
8 charging you, is (a)(3), which is also known as felony  
9 murder. "A person commits the crime of murder if he  
10 commits or attempts to commit robbery in any degree." Now,  
11 there are some other felonies but that is the only one I'm  
12 going to talk to you about. "A person commits the crime of  
13 murder if he commits or attempts to commit the crime of  
14 Robbery in the First Degree, and in the course of the crime  
15 or in the furtherance of the crime or in the immediate  
16 flight therefrom he is committing or attempts to commit, he  
17 or another participant causes the death of any person."  
18 Okay. Let's go over that one more time. "A person commits  
19 the crime of murder if he commits or attempts to commit  
20 robbery in any degree, and in the course or furtherance of  
21 the immediate flight from that crime he or another  
22 participant -- another person in the attempt to commit the  
23 crime of robbery causes the death of any person."

24 Okay. So, what must the State of Alabama  
25 have proved to you before you would be entitled to convict

1 either of these defendants? Well, the first thing they  
2 must have proved to you is that Robert Grubbs Junior is  
3 dead. Okay. That is stipulated. Nobody doubts that.  
4 Secondly, that the defendant Corey Nunley and that the  
5 defendant Terrence Robinson or that the defendant --  
6 remember there are two cases, so you have got to decide  
7 this for both gentleman, so the law as I'm giving to you  
8 applies to both of them -- first, that Robert Grubbs Junior  
9 is dead; that the defendant Corey Nunley or Terrence  
10 Robinson either caused the death of him or participated in  
11 the crime with the other gentleman that got on the stand by  
12 shooting him -- by shooting Robert Grubbs, and that in  
13 committing the act which caused the death of Robert Grubbs  
14 the defendant or another participant in the crime was  
15 acting in the course of and in the furtherance of the crime  
16 of, or in the immediate flight of robbery in any degree,  
17 and that in doing the act which constituted the commission  
18 or the alleged commission of the felony robbery, during the  
19 course of which or in the furtherance of which or in the  
20 immediate flight of which the death of Robert Grubbs was  
21 caused by O'Neal Jackson or any other participants. A  
22 participant in the context of this offense is one who would  
23 be legally accountable either as being one of the procured  
24 -- one who is procured, induced, or caused or the one doing  
25 the procuring or causing or aiding and abetting the

1 commission of the alleged offense.

2 Now, in order for you to decide whether the  
3 crime of robbery was committed or either attempted to be  
4 committed I need to read to you the definition of robbery.  
5 "A person commits the crime of Robbery in the First Degree  
6 if in the course of committing a theft he uses or threatens  
7 the use of imminent force against the person, the owner of  
8 the property or any person present with the intent to  
9 overcome that person's physical resistance or physical  
10 power of resistance, and in doing so he causes serious  
11 physical injury to another person." That is robbery. So,  
12 if you find that any of the three committed robbery on Pete  
13 Bethune or attempted to commit robbery on Pete Bethune, and  
14 that in the course of committing that robbery or attempting  
15 to commit that robbery Robert Junior Grubbs was killed,  
16 then anybody -- any participant in that robbery or  
17 attempted robbery would be guilty of murder if they either  
18 shot the gun or aided or -- had the gun or aided and  
19 abetted the person that did the shooting in committing the  
20 robbery or attempting to commit the robbery. So, what that  
21 means in this case is, if you find that O'Neal Jackson  
22 robbed or attempted to rob Pete Bethune, and during the  
23 course of that robbery that he shot and killed Robert  
24 Junior Grubbs, and further that either of the defendants  
25 aided or abetted in the attempted commission of the

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1 robbery, then they would be guilty of murder just as if  
2 they pulled the trigger.

3 Now, I want to talk to you about what aiding  
4 and abetting means. What does that mean to aid and abet  
5 somebody in the commission of a crime? Well, "aiding and  
6 abetting comprehends all assistance rendered by acts, words  
7 of encouragement or support or presents actual or  
8 constructive to render any assistance should it become  
9 necessary and no particular acts are necessary." Let me  
10 read that to you one more time. "A person aids and abets  
11 another, and aiding and abetting as used in the law  
12 comprehends all assistance rendered by acts, words of  
13 encouragement or support." It can be done by your acts or  
14 just by you encouraging him to do it or supporting him in  
15 his furtherance of that crime, "or the actual presence or  
16 the constructive presence of a participant at the scene in  
17 order to render assistance should it become necessary and  
18 no particular acts are necessary." So, that is the law of  
19 aiding and abetting.

20 Now, if you find from the evidence that the  
21 State has proved beyond a reasonable doubt each of the  
22 elements of the offense of murder as charged, then you  
23 should find the defendants guilty of murder. If you find  
24 the State has failed to prove beyond a reasonable doubt any  
25 one or more of the elements of murder, as I have just

1 explained them to you, then you should find the defendants  
2 not guilty.

3 Now, the lawyers have a right to ask me to  
4 read written requested charges to you that they submit, and  
5 if they are correct statements of the law, and I haven't  
6 said them in my oral charge, I'm duty bound to read those  
7 to you. So, I'll read some written requested charges to  
8 you now.

9 A person acts intentionally with respect to  
10 a result or to conduct when his or her purpose is to cause  
11 that result or engage in that conduct.

12 A person acts knowingly with respect to  
13 conduct or to a circumstance which he or she is aware that  
14 his or her conduct is of the nature or that the  
15 circumstances exists.

16 The minimum requirement for holding a person  
17 criminally liable is there must be at least: (1)  
18 performance by that person or a voluntary act; and (2) the  
19 voluntary omission to perform that an act which he is  
20 physically capable of performing.

21 If a culpable mental state is required on  
22 the part of the defendant with respect to any material  
23 element of the crime charged, then the crime is said to be  
24 one of "mental culpability". It requires that at the time  
25 of voluntary commission of an act or of voluntary omission

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1 of an act which the person is physically capable of  
2 performing, he must have acted: intentionally, knowingly,  
3 recklessly, or with criminal negligence.

4 Where the crime charged requires some degree  
5 of mental culpability on the part of the defendant, that  
6 mental culpability is required as to every essential  
7 element of the crime unless the statute defining the crime  
8 indicates to the contrary.

9 A person is criminally liable for a result  
10 if the result would not have occurred but for his conduct.

11 A person is criminally liable for a result  
12 whether the result was caused by solely by the accused  
13 person's conduct or was caused by his conduct and another  
14 cause acting concurrently, unless the other cause, standing  
15 alone, was sufficient to produce the result of the conduct  
16 of the accused person was clearly insufficient to do so.

17 I wonder who wrote that law.

18 A person is not legally accountable for the  
19 behavior of another person -- excuse me, I'm not going to  
20 give that one.

21 If you entertain a reasonable doubt as to  
22 any fact or element necessary to constitute the defendant's  
23 guilt, it is your duty to give him the benefit of that  
24 doubt and return a verdict of not guilty. Even where the  
25 evidence demonstrates a probability of guilt, if it does

1 not establish such guilt beyond a reasonable doubt, you  
2 must acquit the accused. This doubt, however, must be a  
3 reasonable one; that is, one that is founded on a real  
4 tangible substantial basis and not upon mere caprice and  
5 conjecture. It is a doubt that a reasonable man can  
6 seriously entertain.

7 Ladies and Gentlemen of the Jury, if the  
8 State has failed in its burden to prove to you beyond a  
9 reasonable doubt, based on all the evidence, that Corey  
10 Nunley participated in a robbery or a theft of money from  
11 Willie James Bethune which resulted in the death of Robert  
12 Charles Junior Grubbs, you must acquit him and find him not  
13 guilty of the offense charged in the indictment.

14 I charge the jury that the county in which a  
15 witness resides is not a valid factor for you, the jury, to  
16 consider in weighing the credibility or believability of  
17 the witness.

18 Ladies and Gentlemen of the Jury, you are  
19 the sole judges as to the weight that should be given to  
20 all the testimony. Whenever possible, you should attempt  
21 to reconcile all the evidence.

22 If you are unable to reconcile the evidence,  
23 however, then it is your job to weigh the evidence and to  
24 give more weight to that evidence which you find to be more  
25 believable. If in making this determination, you should



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1 leave all personal biases and prejudices outside the  
2 courtroom. You should be concerned solely with the  
3 evidence which came forth from the witness stand.

4 You are permitted, however, to consider the  
5 witness's demeanor and attitude on the stand, his  
6 sincerity, and the credibility of what is said. If, after  
7 considering all the evidence in this case, you have a  
8 reasonable doubt growing out of the evidence, you must  
9 acquit the defendant.

10 The court charges the jury that, if you  
11 believe any witness's testimony has been contradicted in  
12 any material part, you could choose to believe all of that  
13 witness's testimony.

14 The court charges the jury that, if you find  
15 from the evidence that any witness has made contradictory  
16 statements as to any material facts, you may look at these  
17 contradictory statements in order to determine what  
18 credence you will give to the testimony as a whole of the  
19 said witness.

20 You, the jury, are instructed that proof of  
21 contradictory statements or declarations of a material  
22 point made by a witness may be sufficient to raise a  
23 reasonable doubt in the minds of a jury as to the truth of  
24 the testimony of that witness.

25 I charge you, Ladies and Gentlemen, that a

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1 reasonable doubt is sometimes said to be a doubt for which  
2 a reason can be given. It must spring from the evidence of  
3 the case and the evidence only. If after careful  
4 consideration of the evidence you have a doubt arising from  
5 the evidence or any part of the evidence of the defendant's  
6 guilt, if such doubt seems to be reasonable to you, the  
7 defendant should be acquitted.

8 I charge you, Ladies and Gentlemen, that the  
9 burden is on the State to convince you by the evidence  
10 presented in this case the guilt of the defendant to the  
11 exclusion of every reasonable doubt.

12 Where there is reasonable doubt as to  
13 whether the killing was done with intent, the accused  
14 cannot be convicted of murder.

15 If there was reasonable doubt of the  
16 accused's guilt upon the whole evidence he must be  
17 acquitted.

18 The court charges you, the jury, are the  
19 judge of the facts of the case and the credibility of the  
20 witnesses who have testified.

21 I charge you that mere speculation,  
22 conjecture, or surmise will not authorize you to return a  
23 verdict of guilt.

24 I charge you that the mere possibility and  
25 submissions -- excuse me, suspicions or guesswork will not

1 overcome the presumption of innocence.

2 Let me see the lawyers outside.

3 (WHEREUPON, the following  
4 proceedings were held outside the  
5 presence of the jury as follows:)

6 THE COURT: With that is the State satisfied?

7 MR. WHIGHAM: State is satisfied.

8 THE COURT: Is the Defendant Nunley satisfied?

9 MR. SMITHART: Judge, we would like to ask for  
10 additional charges to be given, Charges 12, 13, 14, 15, and  
11 16.

12 THE COURT: Well, I charged that. 13 is  
13 reasonable doubt, I think I gave plenty of those on  
14 that. 14, already given presumption of innocence.  
15 Proof, I have already given that. I told them that is  
16 the evidence. I already told them that. 16, I have  
17 already talked about conjecture. That is reasonable  
18 doubt. I think I have covered that enough.

19 MR. SMITHART: The only one left would be the  
20 charge on the verdict.

21 THE COURT: I'm going to tell them that when I  
22 walk out.

23 MR. SMITHART: That is all.

24 THE COURT: Defendant Robinson?

25 MR. BOWDEN: Satisfied, your Honor.

1 MRS. HICKS: Satisfied.

2 THE COURT: All right.

3 (THEREUPON, the hearing held out of  
4 the presence of the jury was  
5 concluded.)

6 (WHEREUPON, the following  
7 proceedings were had in the  
8 presence of the jury as follows:)

9 THE COURT: Ladies and Gentlemen, you have  
10 heard all the charges, all the testimony, and all the  
11 arguments of the lawyers. It is time now for you to retire  
12 and begin your deliberations and reach a verdict. Take the  
13 evidence and in an impartial and honest way determine what  
14 you believe to be the truth. If you find that any of the  
15 testimony of any witness in this case was willfully false,  
16 you may disregard any or all the testimony of that witness.  
17 You take the testimony and reconcile it as you can do so  
18 from the witnesses, but, as I told you, the credibility of  
19 the witnesses is up to you, for you to decide. As I told  
20 you in my first statement to you, take your -- everything  
21 in which you in your everyday lives would pass on whether  
22 somebody was being truthful with you and determine what the  
23 truth is. And take the evidence with all the reasonable  
24 and proper inferences therefrom, and in an impartial and  
25 honest way determine what you believe to be the truth,

1 apply that truth to the law as I have given it to you and  
2 reach a verdict.

3 The first thing you should do is elect one  
4 of your number as foreperson, begin your deliberations.  
5 And your verdict must be the verdict of each and every one  
6 of you. It must be unanimous, all twelve of you must agree  
7 on either a guilty or a not guilty verdict.

8 If you find the State has met its burden of  
9 proof, and proved the defendants' guilt beyond a reasonable  
10 doubt, the verdict would be, "We, the Jury, find the  
11 defendant guilty of murder as charged in the indictment."  
12 If, on the other hand, you find the State has failed to  
13 meet its burden of proof and hasn't proved all the elements  
14 of the crime of murder as charged, "We, the Jury, find the  
15 defendant not guilty of murder as charged in the  
16 indictment." You have one form for each defendant. One  
17 form for Mr. Nunley, one form on Mr. Robinson.

18 Retire now and begin your deliberations.  
19 You can take a break. Any of you that need to take one,  
20 take it at any time. Ask the bailiff and he will let you  
21 go, and then come back in. But while anybody is out, don't  
22 deliberate or discuss the case. Don't discuss the case or  
23 deliberate unless all twelve of you are in the room to  
24 participate.

25 With that you may retire and begin your

1 deliberations.

2 (THEREUPON, the jury retired to  
3 begin their deliberations at the  
4 hour of 5:10 p.m.)

5 JURY VERDICT

6 (6:25 p.m.)

7 THE COURT: Okay. Ladies and Gentlemen, have  
8 you reached a verdict in the case of State of Alabama  
9 versus Corey L. Nunley, Case Number CC-94-76, and is this  
10 your verdict: "We, the Jury, find the Defendant Corey  
11 Nunley guilty of murder as charged in the indictment,"  
12 signed Emma Jean Frost, Foreperson? I'm going to point to  
13 each of you and ask if this is your verdict. If it is,  
14 yes; if not, no.

15 Is it yours, ma'am?

16 (THEREUPON, each of the twelve  
17 jurors nodded their heads up and  
18 down in response to the court's  
19 question.)

20 All right.

21 In the case of the State of Alabama versus  
22 Terrence Robinson, Case Number CC-94-74, "We, the Jury,  
23 find the Defendant Terrence Robinson guilty of murder as  
24 charged in the indictment," signed Imagene Sparks,  
25 Foreperson.

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1 Again, ma'am, is this your verdict?

2 (THEREUPON, each of the jurors  
3 nodded their heads up and down in  
4 response to the court's question.)

5 THE COURT: Okay. Thank you very much. You  
6 have done your city, your county, and the state a service  
7 of which we are all appreciative.

8 If you have another case, the cases for  
9 tomorrow, Thursday, and Friday are still on. So, if you  
10 have one of those cases we will see you then; if not, you  
11 are excused. And thank you very much for participating.

12 In you need an excuse the clerk will give  
13 you an excuse for your job; otherwise, he will mail you  
14 your checks later.

15 Thank you very much.

16 (THEREUPON, the jury departed the  
17 courtroom at which time the  
18 following proceedings were held out  
19 of the jury's presence.)

20 COURT'S ADJUDICATION OF GUILT

21 THE COURT: Mr. Robinson, a jury of your peers  
22 has found you guilty of the crime of murder, and the Court  
23 does now adjudge you guilty of the crime of murder.

24 Y'all want a presentence report?

25 MR. BOWDEN: Yes, your Honor.

1 THE COURT: All right.

2 You want the bond raised?

3 MR. WHIGHAM: Yes, sir.

4 THE COURT: The bond will be set at \$150,000.

5 You are in the custody of the sheriff until  
6 you make such bond.

7 Mr. Nunley, a jury of your peers has found  
8 you guilty of the crime, and, of course, the court does now  
9 adjudge you guilty of the crime of murder.

10 Do y'all want a presentence investigation?

11 MR. SMITHART: Yes, sir.

12 THE COURT: All right, sir. His bond will also  
13 be raised to the same amount.

14 Sheriff, he is in your custody, and they  
15 will be in your custody until they make bond.

16 (THEREUPON, court stood adjourned at  
17 the hour of 6:30 p.m.)

18 FRIDAY, JULY 21, 1995 - 9:00 a.m.

19 DEFENDANT COREY NUNLEY SENTENCING

20 WHEREUPON, the following proceedings were  
21 had and entered of record as follows, to-wit:

22 THE COURT: Okay, I call the case of the State  
23 of Alabama versus Corey L. Nunley for sentencing.

24 Is the State ready?

25 MR. WHIGHAM: State is ready.



1 THE COURT: Is the defendant ready?

2 MR. SMITHART: Defendant is ready.

3 THE COURT: Do you or anyone on your behalf  
4 have any legal cause to show which would preclude  
5 pronouncement of sentence at this time?

6 MR. SMITHART: No, sir, your Honor.

7 THE COURT: I'll take any evidence or  
8 submissions that you would like to offer.

9 MR. SMITHART: Judge, before the court today we  
10 have Corey Nunley and his fiance Tracy Owens and his aunt.

11 Corey at this time would like to tell the  
12 court the difference in his life, the changes he has made  
13 since the arrest for the offense that he has been convicted  
14 of.

15 Now, speak up loud.

16 DEFENDANT: Your Honor, I have my job at Wayne  
17 Farms. I'm working, I'm going to church, and, you know,  
18 trying to straighten my life out. And, when the incident  
19 happened I had nothing to do with it, I was just at the  
20 wrong place at the wrong time. And, you know, I didn't  
21 have nothing to do with it. And, then, the D.A., just -- I  
22 guess they were looking at me and my other two brothers,  
23 you know, like I was real bad.

24 MR. SMITHART: Corey, have you had any kind of  
25 arrests or convictions since then?

1 DEFENDANT: No.

2 MR. SMITHART: All right.

3 Ms. Taylor, tell the court your relationship  
4 to Corey Nunley.

5 MS. TAYLOR: I was Corey Nunley's aunt.

6 MR. SMITHART: And you -- do you see Corey on a  
7 frequent basis?

8 MS. TAYLOR: yes.

9 MR. SMITHART: And, if you could, tell the  
10 court why you think that Corey shouldn't be sentenced.

11 MS. TAYLOR: Your Honor, Corey is a good boy.  
12 When he was young he did some things but he learned from  
13 them, and this incident here, please, he done changed. He  
14 got a job, he is working more now, he is not a threat to  
15 society. And I'm asking you for leniency on his life.  
16 Don't put his life in jeopardy, if you will.

17 They had picked at Corey because they picked  
18 at his father. His father got killed, and he was a mother  
19 and father to these kids, and he being more to us now  
20 because we have had him from a baby to now, and I live with  
21 him. Corey is a good person.

22 Thank you, your Honor.

23 MR. SMITHART: Do any of the other family  
24 members have anything they want to say to the court?

25 This is Corey's grandmother, Judge.

1 State your name, please.

2 MS. NUNLEY: My name is Bertha Nunley, and I  
3 have been had Corey all of his life. I have been had him  
4 since he was about two or three months old. My son worked  
5 in Rockford, Alabama, and he would bring those kids over  
6 there to me. When he would get off work he would come and  
7 pick them up, carry them home. When he gets them over to  
8 the school bus he will come back and get them, and it hurts  
9 me that they penned this on him.

10 I had to go to the doctor last Wednesday  
11 myself. I was threatening a stroke on account of Corey.  
12 Corey, he minds. He mind me. Anything I ask him to help  
13 me do, he would be right there to help me. I wouldn't have  
14 nothing if it hadn't been for Corey, because I'm 80  
15 something, and I'm not able to do anything.

16 And I thank you, because I can't stand up  
17 long.

18 THE COURT: Okay, y'all may go back.

19 MR. SMITHART: Judge, on Corey's behalf we  
20 would like to point out to the court since the arrest Corey  
21 has spent seven months in the county jail or on public  
22 release. He got a job and started the GED program, and  
23 made stringent efforts to turn his life around. He has got  
24 juvenile problems that I know that Corey is aware of, and  
25 we think that the evidence at trial was minimal for the

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1 conviction of him, and we would like to ask the court to be  
2 lenient on him.

3 THE COURT: What does the State say?

4 MR. WHIGHAM: The court heard the evidence in  
5 the case. The restitution in this case is \$4,194.19 for  
6 funeral expenses for Robert Junior Grubbs. The court did  
7 hear the evidence in the case. And although there has been  
8 no remorse for the death of Junior Grubbs by any of these  
9 defendants that were involved in this case, at least one of  
10 them did come forward and admit he had done wrong, and  
11 pled, and was sentenced by this court. I don't think that  
12 -- Corey Nunley still denies the wrongdoing today, after a  
13 jury of his peers had convicted him, and I don't think he  
14 deserves any mercy of this court, and the State recommends  
15 life.

16 MR. SMITHART: Judge, in response to that, you  
17 know, I think it has been clear all along that Corey wasn't  
18 the shooter. He was on the peripheral, really, involved in  
19 it at all, hanging out with the wrong people at the wrong  
20 time and not something that warrants a life sentence.

21 THE COURT: Well, the court heard the evidence,  
22 it agrees with the finding of the jury that he is guilty.  
23 He shows absolutely no remorse for any of his actions, he  
24 has not admitted any kind of guilt or wrongdoing, he  
25 doesn't even believe he did anything wrong.

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1           No legal cause having been shown which would  
2 preclude pronouncement of sentence, it is the sentence of  
3 law, and the judgment of this court, that you be, and you  
4 hereby are now sentenced to pay restitution in the amount  
5 of \$4,194.19, victim's comp fine in the amount of \$50, that  
6 you be, and you hereby are sentenced to a term of  
7 imprisonment for the balance of your life.

8           You have a right to appeal this conviction  
9 should you desire to do so.

10          He is in the custody of the sheriff.

11          DEFENDANT TERRENCE ROBINSON SENTENCING

12          THE COURT: I call the case of the State of  
13 Alabama versus Terrence Robinson for sentencing. Is the  
14 State ready?

15          MR. WHIGHAM: State is ready.

16          THE COURT: Is the defendant ready?

17          MR. BOWDEN: Defendant is ready.

18          THE COURT: Do you or anyone on your behalf  
19 have any legal cause to show which would preclude  
20 pronouncement of sentence.

21          MR. BOWDEN: No legal cause, your Honor.

22          THE COURT: Any evidence or submissions that  
23 you would like to make?

24          MR. BOWDEN: All right, your Honor. At the  
25 request of the defendant I would like for his grandfather

1 to be able to speak to the court.

2 You go ahead and state your name.

3 MR. TARVER: Moses Tarver.

4 MR. BOWDEN: Mr. Tarver, would you speak to the  
5 judge now and tell him what you would like for him to hear  
6 on behalf of your grandson.

7 MR. TARVER: Judge, your Honor, this is my  
8 grandson, and I want you to have mercy on him, please. He  
9 has been a lot of help to me, and I don't know what  
10 happened or nothing. I know nothing about that, but what I  
11 wanted to ask you, you have mercy, if mercy be found, and I  
12 believe that mercy can be found. And, you do this thing --  
13 our grandson has been here for years, ever since he was  
14 raised from a little person, and I'm begging for my  
15 grandson, to have mercy on him.

16 MR. BOWDEN: Thank you, Mr. Tarver. I believe  
17 -- is that your mother? I believe his mother would like to  
18 speak to you now, your Honor, if you would like.

19 MS. SWANSON: Judge, my name is Diane Swanson.  
20 And I beg for you to have mercy on my son, and I think that  
21 if he have another chance in life that he would be a much  
22 better person. And I don't think he really did the  
23 offenses of what the people accused him of doing, and I  
24 tried my best to do the best I could to raise him.

25 THE COURT: I'm sure you did, and I'm sorry he

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1 turned out this way, I really am. I'm sorry he turned out  
2 this way.

3 MR. BOWDEN: Thank you, ma'am. I'm sure the  
4 judge will honor your request.

5 Your Honor, I would like to say one thing on  
6 behalf of the defendant. Since he has been in jail down  
7 here, the district attorney requested that one of his  
8 members of his office I believe contacted Terrence to help  
9 with an investigation they needed to be seeing about in the  
10 Bullock County jail. Terrence agreed to comply with that  
11 request. He did assist them doing what was asked of him  
12 through the D.A.'s office, and I would like to point out  
13 that he has cooperated in jail, and has been of assistance  
14 to the D.A. in another case, and I would also like to ask  
15 that you have mercy on him.

16 THE COURT: Do you want to say anything,  
17 Terrence?

18 DEFENDANT: I'm being sentenced for a crime  
19 which I didn't commit.

20 THE COURT: I can't forgive you for something  
21 you didn't do. If you didn't do it, it doesn't involve  
22 forgiveness.

23 Mr. D.A., do you have anything?

24 MR. WHIGHAM: I have the restitution in this  
25 case is the same as it is in the other one, that the cost

1 of funeral expenses is \$4,194.19. The court has heard the  
2 evidence in the case, and there is no need to go back over  
3 it. Terrence did provide the pistol that was used, there  
4 is no dispute in any of the evidence in regards to that,  
5 that he provided the pistol that was used to kill Mr.  
6 Robert Junior Grubbs. Just as I mentioned in the other  
7 case, nobody has shown remorse about the death of Mr.  
8 Grubbs throughout the trial of this case, and the  
9 sentencing in this case or anything else, and we would for  
10 the State recommend life.

11 THE COURT: No legal cause having been shown  
12 which would preclude pronouncement of sentence, it is the  
13 sentence of law, and the judgment of this court, that you  
14 be, and you hereby are ordered to pay restitution in the  
15 amount of \$4,194.19, \$50 Victim's Comp fine, court costs,  
16 attorney fees, and you are hereby sentenced to a term of  
17 life in the penitentiary.

18 You have a right to appeal this should you  
19 desire to do so. You're in the custody of the sheriff.

20 (THEREUPON, court stood adjourned.)

21 \* \* \* \* \*



## IN THE CIRCUIT COURT OF BULLOCK COUNTY, ALABAMA

TERRANCE ROBINSON,	)	
	)	
PETITIONER,	)	
	)	
VS.	)	CASE NO.: CC-1994-074.61
	)	(Prior Rule 32 Case No.
	)	CC-94-74.60)
STATE OF ALABAMA,	)	
	)	
RESPONDENT.	)	

ORDER TO TRANSFER INMATE

A hearing having been set before this Court for Monday December 11, 2000, at 9:00 a.m., on a Motion for Hearing filed by the Petitioner, Terrance Robinson, IT IS THEREFORE ORDERED that the Sheriff of Bullock County, Alabama and the Department of Corrections arrange and provide for the transfer of inmate Terrance Robinson, AIS No. 182958, from B-Dorm, Elmore, Alabama to the Bullock County Courthouse in Union Springs, Alabama on Monday, December 11, 2000 at 9:00 a.m. for said hearing.

Done and Ordered this 1st of December, 2000.

  
Michael O. Emfinger  
Sitting By Special Appointment

cc: District Attorney Boyd Whigham  
Sheriff Charles Hudson  
Department of Corrections

IN THE CIRCUIT COURT OF ~~Bullock~~ COUNTY, ALABAMA:

TERRENCE ROBINSON  
PETITIONER

VS:

STATE OF ALABAMA  
RESPONDANTSDet, al.

CASE NO CC-94: 74.61

MOTION TO AMEND RULE 32 PETITION

Comes now the petitioner by and through himself (pro-se) moves this honorable court for a amendment to his rule 32 petition and add the following grounds.

- #1. the petitioner claims that there is a variance between the indictment and the proof that was submitted at his trial.
- #2. the petitioner claims that because of such variance the circuit court was without jurisdiction to except the jury verdict of guilt and pronounce judgement and sentence.

GROUND'S OF PETITION

A. count 1 of the indictment reads: the grand jury of said county charge that before the finding of this indicment, TERRENCE ROBINSON, whose name is otherwise unknown, did, with the intent to cause the death of the persdn or of the person, to wit, ROBERT CHARLSE JUNIOR GRUBBS, by or through theruse of a deadly weapon, to wit, by shooting him with a gun, while the victim robert charlse junior grubbs was in the vehicle, in violation of section 13A-5-40 (A) (17) code of alabama.

B. count 2 of the indictment reads: the grand jury of said county further charge that before the finding of this indictment, TERRENCE ROBINSON, WHOSE NAME IS OTHERWIEUSE UNKNOWN TO THE GRAND JURY, DID WITH THE INTENT TO CAUSE THE DEATH OF ANOTHER PERSON, CAUSE THE DEATH OF THAT PERSON, TO WIT, ROBERT CHARLSE JUNIOR GRUBBS, BY OR THROUGH THE USE OF A DEADLY WEAPONM TO WIT, BY SHOOTING HIM WITH A GUN, WHILE

THE VICTIM, ROBERT CHARLSE GRUBBS JUNIOR, WAS IN THE VEHICLE, IN VIOLATION OF SECTION 13A - 5- 40 (A)) (17) CODE OF ALABAMA.

ARGUMENT #1. THE PETITIONER WAS CHARGED WITH VIOLATION OF TITLE 13A-6-2- of the code of alabama. which reads; a person commits the crime of murder if, (1) WITH INTENT TO CAUSE THE DEATH OF THAT PERSON OR ANOTHER PERSON, OR (2) UNDER THE CIRCUMSTANCES MANIFESTING AN EXTREME INDIFFERENCE TO HUMAN LIFE, he recklessly engages in conduct which creates a grave risk of death to a person other than himself, and thereby causes the death of another person.

the petitioner claims that because he was found guilty under this code he was held to answer to a charge which is not contained in the indictment.

count 1 and count 2 of the indictment charges that TERRENCE ROBINSON DID COMMIT THE CRIME OF MURDER WITH A GUN. but, the evidence proof at trial only proof that TERRENCE ROBINSON RECKLESSLY ENGAGED IN CONDUCT WHICH CREATED AN EXTREME INDIFFERENCE TO A HUMAN LIFE.

THE PETITIONER WAS INDICTED UNDER 13A-6-2 A (of the code of alabama but found guilty under 13 A- 6- 2 (B) of that code which is not contained in the indictment.

the petitioner claims that the evidence introduced at trial only proved that he (TERRENCE ROBINSON ) had given one of the individual a weapon supposedly used in this crime with no prior evidence that the petitioner participated, nor, did he know of the intentions of the codefendant in this crime.

the petitioner states that the codefendant (ONEAL JACKSON) has admitted to shooting the victim in this case. (SEE ONEAL JACKSON STATEMENT). therefore the state of alabama has failed to proof the charged which is contained in the indictment charging that the defendant (TERRENCE ROBINSON COMMITTED THE CRIME OF MURDER BY SHOOTING THE VICTIM WITH A GUN.

EXPARTE V. WASHINGTON 448 so 2d 404 (1984). as pointed out there is several indifferences between intentional murder (13a-6-2(A)(1), and reckless murder, 13A-6-2-a(2). one is that kind of culpability differs in that 13a-6-2-(A)(1) requires intentional conduct and 13a-6-2(a)(2) requires reckless conduct. under 13 a-1-9 (A) (4) reckless murder could be considered an included offense of intentional murder, the indicted offense, if, it is differed from the indicted offense only because it requires a lesser kind of culpability.

however, there is another difference. if only a lesser type of culpability is shown, reckless, the offense is MANSLAUGHTER section 13A -6-2 A (2) REQUIRES a showing that the defendant conduct was directed at human life in general an opposed to a particular individual. [THIS ADDITIONAL DIFFERENCE BETWEEN THE OFFENSE HE WAS INDICTED FOR, INTENTIONAL MURDER]. and universal malice murder precludes the latter from being an included offense, since it can be established only by a showing of facts not required in order to be convicted of intentional murder. (13A -6-2-(A)(1).

the petitioner was indicted under 13a-6-2-(a) of the code of alabama which states that the petitioner committed the crime of murder by, shooting the victim with a gun, however the petitioner was found guilty of section 13a-6-2-(B) of the code of alabama, which is not contained

in the indictment. 13-6-2(B) READS: a person commits the crime of murder if, whcih he engages in conduct which manifest a extreme indifference to human life. therefore the petitioner is illegally incarcerated on a charge which is not contained in the indictment, the petitioner should have been indicted and found guilty of 13A-6-2-(B). THE PETITIONER INDICTEMENT SHOULD HAVE READ: TERRENCE ROBINSON DID COMMIT THE CRIME OF MURDER BY ENGAGING IN CONDUCT THAT MANIFESTED A EXTREME INDIFFERENCE TO HUMAN LIFE, OR THAT HE ENGAGED IN CONDUCT THAT CREATED A GRAVE RISK OR DEATH TO A PERSON OTHER THAN HIMSELF, AND THEREBY CAUSED THE DEATH OF ANOTHER PERSON,

SECTION 13a-6-2- (A) (2). ALSO REATINS AS MURDER THE RECKLESSLY ENGAGING IN CONDUCT WHICH CREATES A GRAVE RISK OF DEATH UNDER CIRCUMSTANCES "MANIFESTING" EXTREME INDIFFERENENCES TO HUMSN LIFE", WHICH IS DIFFERENT FROM A POSITIVE INTENT TO KILL, AND WHICH ESSENTIALLY RESTATES EXIDTING LAW, SECTION 13-1-70. of the code of alabama.

where a act causing the death was specifically aimed at a inflicted upon a particular person and none other, the person perpertrator could properly be convicted of first degreee murder: state v. mitchell, 29 wash. 2d 468.

the evidence in this case when viewed in light most favorable to the prosecution,.reveals that the defendant acts and omissions were spe- cifically directed at a particular victim and no other, the jury found the petitioner gulty of murder, count 2 of the indictment, the review of the record proofs that the evidence produced at trial is insufficient to support the conviction of intentionaal murder,

SEE: NORTHINGTON V. STATE 413 so 2d 1169 (AND EXPARTE V. WASHINGTON 448 so 2d 404).

THE PETITIONER WAS INDICTED UNDER 13a-6-2(A) of the code of alabama which states that a person commits the crime of murder by intent and with a weapon. however, the petitioner was found guilty under 13a-6-2 (B) of the code of alabama which is not contained in the indictment.

THE PETITIONER HOPE AND PRAY THAT THIS HONORABLE COURT WOULD TAKE JUDICIAL NOTICE OF THE GROUNDS OF THIS PETITION AND GRANT TO HIM WA WHATEVER RELIEF THIS COURT FIND NECESSARY WITHOUT FURTHER DELAY.

SWORN AND SUBSCRIBED BEFORE ME THIS THE 2nd DAY OF JANUARY 2001.  
MY COMMISSION EXPIRES 8th, DAY OF Nov., 2003.

TERRANCE ROBINSON  
Terrance Robinson  
P.O. BOX 56  
ELMORE ALABAMA, 36025

James C. Davis  
NOTARY PUBLIC STATE AT LARGE

**IN THE CIRCUIT COURT FO BULLOCK COUNTY, ALABAMA**

TERRANCE ROBINSON,	)	
	)	
Petitioner,	)	
	)	CASE NO. CC-94-74.61
Vs.	)	(Prior Rule 32 Case No. CC-94-74.60
	)	
STATE OF ALABAMA,	)	
	)	
Respondent.	)	

**ORDER**

This matter coming on to be heard on December 11, 2000, on the Court's order dated September 11, 2000, a copy of which is attached hereto as Exhibit "A". Petitioner Terrance Robinson appeared before this court on December 11, 2000, and made arguments concerning the allegations contained in his Rule 32 petition and the State of Alabama was represented by District Attorney, Boyd Whigham.

The Court reviewed the complete file and takes Judicial notice of the contents of said file.

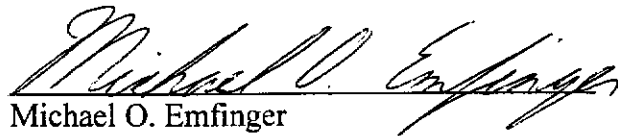
The Court finds from the arguments of the Petitioner on December 11, 2000, and the allegations contained in the Rule 32 Petition filed August 11, 2000, that the Petitioner has failed to present any evidence that would be jurisdictional as provided by Rule 32.1(b).

The Court further finds that the Petitioner has presented no newly discovered evidence that would meet the requirements of Rule 32.1(e). The Court further finds that the affidavit of the Petitioner dated September 14, 2000, fails to present any newly discovered evidence.

The Court further finds that the Petitioner was allowed to argue before the Court on December 11, 2000, any and all matters to which the Petitioner believed would support his petition and even with this the Petitioner failed to overcome the preclusions of remedy as provided by Rule 32.2.

It is therefore **ORDERED and ADJUDGED** that the Petition be precluded pursuant to the provisions of Rule 32.2 (b). All issues are **DISMISSED** pursuant to Rule 32.2 A.R. Cr. P.

**ORDERED and ADJUDGED** this 24<sup>th</sup> day of January, 2001.

  
Michael O. Emfinger  
Setting by Special Appointment  
As Circuit Judge



EX-1817 11

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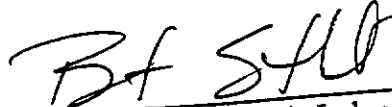
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contained in the Court file, and said District Judge shall consider all other matters that might come before the Court in regard to Terrance Robinson, Case Nos. CC-94-74.60, CC-94-74.61.

ORDERED this 11<sup>th</sup> day of September, 2000.

  
Burt Smithart, Circuit Judge  
Third Judicial Circuit

cc: Judge Michael Emfinger  
District Attorney Boyd Whigham  
Clerk of Courts, Wilbert Jernigan  
Terrance Robinson

In The Court Of Criminal Appeals  
State Of Alabama

TERRENCE ROBINSON,

Appellant

Vs.

State Of Alabama,

Appellee

Case No. CC-94-74

Notice Of Appeal:

The appellant in the above styled action hereby gives notice of appeal to the Court of Criminal Appeals from the decision rendered in this action on JAN 24, 2001 whereas the Trial Judge dismissed appellant's petition.

Dated this 20 day of FEB 2001

TERRENCE ROBINSON  
*Terrence Robinson*

Certificate Of Service:

I hereby certify that I have served all parties with a true and correct copy of the foregoing by the same being placed in the U.S. mail all postage paid.

Dated this 20 day of FEB 2001

Terrence Robinson

State of Alabama  
Unified Judicial System

Form ARAP-1C 8/91

## REPORTER'S TRANSCRIPT ORDER - CRIMINAL

Criminal Appeal Number

See Rules 10(c) and 11(b) of the  
Alabama Rules of Appellate Procedure (A.R. App.P.)

TO BE COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE OF APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Bullock County COUNTY  
TERRENCE ROBINSON Appellantv. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF

Case Number

CC-94-74

Date of Judgment/Sentence/Order

Date of Notice of Appeal

Oral:

Written:

Feb 20, 2001

Indigent Status Granted:

☒ Yes☐ No

## PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT NO REPORTER'S TRANSCRIPT IS EXPECTED AND THAT THE RECORD ON APPEAL SHALL CONSIST OF THE CLERK'S RECORD ONLY. IF THE APPEAL IS FROM DISTRICT COURT OR JUVENILE COURT, I ALSO CERTIFY (1) THAT A STIPULATION OF FACTS WILL BE INCLUDED IN THE CLERK'S RECORD AND THAT THE APPELLANT WAIVES HIS RIGHT TO A JURY TRIAL IF SO ENTITLED; OR (2) THAT THE PARTIES HAVE STIPULATED THAT ONLY QUESTIONS OF LAW ARE INVOLVED AND THAT THE QUESTIONS WILL BE CERTIFIED BY THE JUVENILE/DISTRICT COURT FOR INCLUSION IN THE CLERK'S RECORD (SEE RULE 28(A)(1), ALABAMA RULES OF JUVENILE PROCEDURE, AND §12-12-72, CODE OF ALABAMA 1975).

N/A

N/A

N/A

## PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED. Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R. App.P.)):

## MARK PROCEEDINGS REQUESTED:

## COURT REPORTER(S)

- A. ☐ TRIAL PROCEEDINGS - Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately.
- B. ☐ ORGANIZATION OF THE JURY - This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 19.4, A.R.C.P.)
- C. ☐ ARGUMENTS OF COUNSEL - Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 19.4, A.R.C.P.)

IN ADDITION TO ANY PROCEEDINGS DESIGNATED ABOVE, SPECIAL REQUEST IS HEREBY MADE TO INCLUDE THE FOLLOWING PROCEEDINGS IN THE REPORTER'S TRANSCRIPT PORTION OF THE RECORD ON APPEAL. (ATTACH ADDITIONAL PAGES IF NECESSARY):

ADDITIONAL PROCEEDINGS REQUESTED	DATE	COURT REPORTER(S)
D. <u>Rule 32 Petition</u>	<u>12-11-00</u>	<u>UNKNOWN</u>
E. _____	_____	_____
F. _____	_____	_____
G. _____	_____	_____

IMPORTANT NOTICE: The court reporter who reported the proceedings for which a transcript is requested must be identified on this form to effective. Additionally, it is important to note that the appellant may not be permitted to raise any issue on appeal relating to any proceeding in the case that are not specifically designated on this form for inclusion in the reporter's transcript. A general designation such as "all proceedings" is not sufficient. (See Rule 10(c)(2), A.R. App.P.)

## PART 3. MUST BE SIGNED IF THE APPEAL WILL HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT I HAVE DISTRIBUTED THIS FORM AS SET OUT BELOW. I ALSO CERTIFY (1) THAT I HAVE MADE SATISFACTORY FINANCIAL ARRANGEMENTS WITH EACH COURT REPORTER LISTED ABOVE FOR PREPARING HIS OR HER PORTION OF THE REPORTER'S TRANSCRIPT HEREIN REQUESTED; OR (2) THAT THE APPELLANT PROCEEDED AT TRIAL AS AN INDIGENT AND THAT THAT STATUS HAS NOT BEEN REVOKED; OR (3) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS.

Terrence Robinson

Signature

Feb 20, 2001

Date

Print or Type Name

DISTRIBUTION: Original filed with Clerk of Trial Court and copies mailed to: (1) Clerk of the Court of Criminal Appeals, (2) the District Attorney, (3) the Attorney General or the municipal prosecutor in lieu of the District Attorney and the Attorney General if the appeal is for municipal conviction, and (4) to each Court Reporter who reported proceedings designated for inclusion in the reporter's transcript.

State of Alabama Unified Judicial System Form ARAP- 26 (front) 8/91	<b>COURT OF CRIMINAL APPEALS DOCKETING STATEMENT</b>	Criminal Appeal Number <div style="border-bottom: 1px solid black; height: 20px;"></div>
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115

**A. GENERAL INFORMATION:**

☒ CIRCUIT COURT   
 ☐ DISTRICT COURT   
 ☐ JUVENILE COURT OF Bullock County COUNTY  
TERRENCE ROBINSON, Appellant

V. ☒ STATE OF ALABAMA    ☐ MUNICIPALITY OF \_\_\_\_\_

Case Number <u>CC-94-74</u>	Date of Complaint or Indictment	Date of Judgment/Sentence/Order
Number of Days of Trial/Hearing Days	Date of Notice of Appeal Oral:	Written: <u>Feb 20, 2001</u>
Indigent Status Requested: <input type="checkbox"/> Yes <input type="checkbox"/> No		Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**B. REPRESENTATION:**

Is Attorney Appointed or Retained? ☐ Appointed ☐ Retained. If no attorney, will appellant represent self? ☒ Yes ☐ No

Appellant's Attorney (Appellant if pro se) (Attach additional pages if necessary) <u>N/A</u>		Telephone Number
Address	City	State      Zip Code

**C. CODEFENDANTS:** List each CODEFENDANT and the codefendant's case number.

Codefendant <u>Corey Nunley</u>	Case Number <u>CC-94-76 CC-94-77</u>
Codefendant <u>O'Neal Jackson</u>	Case Number <u>N/A</u>
Codefendant	Case Number

**D. TYPE OF APPEAL:** Please check the applicable block.

1 <input type="checkbox"/> State Conviction	4 <input type="checkbox"/> Pretrial Order	7 <input type="checkbox"/> Juvenile Transfer Order	10 <input type="checkbox"/> Other (Specify)
2 <input checked="" type="checkbox"/> Post-Conviction Remedy	5 <input type="checkbox"/> Contempt Adjudication	8 <input type="checkbox"/> Juvenile Delinquency	
3 <input type="checkbox"/> Probation Revocation	6 <input type="checkbox"/> Municipal Conviction	9 <input type="checkbox"/> Habeas Corpus Petition	

**E. UNDERLYING CONVICTION/CHARGE:** Regardless of the type of appeal checked in Section D, please check the box beside each offense category for which the appellant has been convicted or charged as it relates to this appeal. Also include the applicable section of the Code of Alabama for State convictions.

1 <input type="checkbox"/> Capital Offense - § <u>13A5-40</u>	6 <input type="checkbox"/> Trafficking in Drugs - § _____	11 <input type="checkbox"/> Fraudulent Practices - § _____
2 <input type="checkbox"/> Homicide - § <u>13A6-2</u>	7 <input type="checkbox"/> Theft - § _____	12 <input type="checkbox"/> Offense Against Family - § _____
3 <input type="checkbox"/> Assault - § _____	8 <input type="checkbox"/> Damage or Intrusion to Property - § _____	13 <input type="checkbox"/> Traffic - DUI - § _____
4 <input type="checkbox"/> Kidnapping/Unlawful Imprisonment - § _____	9 <input type="checkbox"/> Escape - § _____	14 <input type="checkbox"/> Traffic - Other - § _____
5 <input type="checkbox"/> Drug Possession - § _____	10 <input type="checkbox"/> Weapons/Firearms - § _____	15 <input type="checkbox"/> Miscellaneous (Specify): _____ - § _____

**F. DEATH PENALTY:**  
Does this appeal involve a case where the death penalty has been imposed? ☐ Yes ☒ No

**G. TRANSCRIPT:**

1. Will the record on appeal have a reporter's transcript? ☒ Yes ☐ No

2. If the answer to question "1" is "Yes," state the date the Reporter's Transcript Order was filed. Feb 20, 2001 (Date)

3. If the answer to question "1" is "No":

(a) Will a stipulation of facts be filed with the circuit clerk? ☒ Yes ☐ No

(b) Will the parties stipulate that only questions of law are involved and will the trial court certify the questions? ☒ Yes ☐ No

NOTE: If the appeal is from the district or juvenile court and the answer to question "1" is "No," then a positive response is required for question 3(a) or 3(b).

Form ARAP- 26 (back) 8/91

## COURT OF CRIMINAL APPEALS DOCKETING STATEMENT

H. POST-JUDGMENT MOTIONS: List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rules 20.3 and 24.4 (ARCrP)):

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Day	Year		Month	Day	Year
8	2	00	Rule 32 Petition	1	24	01
2	20	01	Notice of Appeal			
2	20	01	Motion for judge to set aside and vacate order Date 24, JAN 2001			

I. NATURE OF THE CASE: Without argument, briefly summarize the facts of the case.

Appellant filed his petition for Relief from conviction or sentence 8-2-00, Appellee filed a " Motion to Deny ON 8-23-00, Appellant filed a Response and objection to Motion 8-25-00, The court Summarily Dismissed ON 1-24-01, Appellant filed a Notice of Appeal AND motion for Judge to set aside AND vacate order Date 20, Feb 2001.

J. ISSUE(S) ON APPEAL: Briefly state the anticipated issues that will be presented on appeal. (Attach additional pages if necessary.)

Whether vel non, the court Erred in Summarily dismissing Jurisdiction Issues on Appeal? [Yes they Erred], AS:

- 1.) Illegal Consolidation
- 2.) Indictment /void
- 3.) Newly Discovered Evidence
- 4.) Court without Jurisdiction to Render Judement
- 5.) Actual INNOCENCE

K. SIGNATURE: Terrence Robinson

Feb 20, 2001

Terrence Robinson #182958

# **NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS BY THE TRIAL COURT CLERK**

TERRENCE ROBINSON

V.

☒

STATE OF ALABAMA

CITY OF \_\_\_\_\_

APPELLEE

APPELLANT'S NAME

(as it appears on the indictment)

☒

CIRCUIT

☐

DISTRICT

☐

JUVENILE COURT OF \_\_\_\_\_

COUNTY

CIRCUIT/DISTRICT/JUVENILE JUDGE: Honorable Michael O. EmfingerDATE OF NOTICE OF APPEAL: February 20, 2001

(NOTE: If the appellant is incarcerated and files notice of appeal, this date should be the date on the certificate of service, or if there was no certificate of service, use the postmark date on the envelope.)

## INDIGENCY STATUS:

Granted Indigency Status at Trial Court:

Appointed Trial Counsel Permitted to Withdraw on Appeal:

Indigent Status Revoked on Appeal:

☒ Yes ☐ No☐ Yes ☒ No☐ Yes ☒ No

## DEATH PENALTY:

Does this appeal involve a case where the death penalty has been imposed?

☐ Yes ☒ No

## TYPE OF APPEAL: (Please check the appropriate block.)

☐ State Conviction☒ Rule 32 Petition☐ Probation Revocation☐ Mandamus Petition☐ Pretrial Appeal by State☐ Contempt Adjudication☐ Municipal Conviction☐ Writ of Certiorari☐ Juvenile Transfer Order☐ Juvenile Delinquency☐ Habeas Corpus Petition☐ Other(specify) \_\_\_\_\_

IF THIS APPEAL IS FROM AN ORDER DENYING A PETITION (I.E., RULE 32 PETITION, WRIT OF HABEAS CORPUS, ETC.) OR FROM ANY OTHER ORDER ISSUED BY THE TRIAL JUDGE, COMPLETE THE FOLLOWING:

TRIAL COURT CASE NO.: CC-1994-074.61DATE ORDER WAS ENTERED: JANUARY 24, 2001PETITION: ☒ Dismissed ☐ Denied ☐ Granted

IF THIS IS AN APPEAL FROM A CONVICTION, COMPLETE THE FOLLOWING:

DATE OF CONVICTION: \_\_\_\_\_

DATE OF SENTENCE: \_\_\_\_\_

## YOUTHFUL OFFENDER STATUS:

Requested: ☐ Yes ☐ NoGranted: ☐ Yes ☐ No

LIST EACH CONVICTION BELOW: (attach additional page if necessary)

- |    |                            |                   |
|----|----------------------------|-------------------|
| 1. | Trial Court Case No. _____ | CONVICTION: _____ |
|    | Sentence: _____            |                   |
| 2. | Trial Court Case No. _____ | CONVICTION: _____ |
|    | Sentence: _____            |                   |
| 3. | Trial Court Case No. _____ | CONVICTION: _____ |
|    | Sentence: _____            |                   |

## POST-JUDGMENT MOTIONS FILED: (complete as appropriate)

Date Filed

Date Denied

Continued by Agreement To (Date)

☐ Motion for New Trial☐ Motion for Judgment of Acquittal☐ Motion to Withdraw Guilty Plea☐ Motion in Arrest of Judgment☐ Other \_\_\_\_\_

COURT REPORTER(S): \_\_\_\_\_

ADDRESS: \_\_\_\_\_

APPELLATE COUNSEL: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

APPELLANT: (IF PRO SE) ..... AIS# 182958ADDRESS: ..... Terrence RobinsonFountain 3800, Atmore 36503

APPELLEE (IF CITY APPEAL): ..

ADDRESS: ..

I certify that the information provided above is accurate to the best of my knowledge and I have served a copy of this Notice of Appeal on all parties to this action on this 22nd day of February, 2001.

Wilbert M. Jernigan  
CIRCUIT COURT CLERK

AP 12-3 Letter of Transmittal of Notice of Appeal to the Court of Criminal Appeals by Trial Clerk Printed and for Sale by Roberts &amp; Son, Birmingham

LETTER OF TRANSMITTAL OF NOTICE OF APPEAL TO  
THE COURT OF CRIMINAL APPEALS BY  
TRIAL CLERK

ERRANCE ROBINSON

Appellant

V.

STATE OF ALABAMA

Appellee

Offense RULE 32 PETITIONSentence DismissedNotice of Appeal February 20, 2001

Date Filed

Judgement Entry January 24, 2001

Date Entered

- [ ] Oral notice of appeal has been given prior to or on the date of entry of the judgment of conviction in this cause,
- [ X ] Written notice of appeal has been filed on the date indicated hereon (within 42 days from the entry of judgment or the order overruling a post conviction motion),

A certified copy of the entry of record of the oral notice of appeal or the written notice of appeal is forwarded herewith for filing with the Court of Criminal Appeals.

I certify that I have served a copy of this letter of transmittal along with a copy of the notice of appeal on each of the following:

1. Court Reporter (Name and address) Kelli Mills, Union Springs, Al
2. Defendant
3. Defendant's appellate counsel. (Name and address) \_\_\_\_\_
4. District Attorney
5. Attorney General

DATED this 26th day of MARCH, ~~19~~ 2001

*Wilbert M. Jernigan*  
Circuit Clerk



CERTIFICATE OF COMPLETION AND  
TRANSMITTAL OF RECORD ON APPEAL  
BY TRIAL CLERK

TERRANCE ROBINSON

Appellant

v.

TO: The Clerk of the Court of  
Criminal Appeals of Alabama

Case No. CC-1994-74.61

State of Alabama

Appellee

Date of Notice of Appeal 02-20-01

I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling in (a single volume of 119 pages) (\_\_\_\_\_ volumes of 200 pages each and one volume of \_\_\_\_\_ pages) the clerk's record and the reporter's transcript and that one copy each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of briefs.

I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.

DATED this 26th day of MARCH, ~~XX~~2001

Wilbert M. Gernigan  
Circuit Clerk

BULLOCK  
County

**COPY**

1

1                   IN THE THIRD JUDICIAL CIRCUIT  
2                   IN AND FOR BULLOCK COUNTY, ALABAMA

3           TERRENCE ROBINSON, AIS # 182958  
4           Petitioner,

  Circuit Court  
5           Vs.                           Case No. CC-1994-74.61

6           STATE OF ALABAMA,  
7           Respondent.

8                   \* \* \* \* \*  
9                   REPORTER'S OFFICIAL TRANSCRIPT ON APPEAL  
                  \* \* \* \* \*

10  
11  
12           Rule 32 proceedings taken in the above-styled  
13           cause in the Bullock County Courthouse, Union Springs,  
14           Alabama, on December 11, 2000, before the Honorable  
15           Michael O. Emfinger.

16  
17  
18                                   APPEARANCES

19           ON BEHALF OF THE PETITIONER:  
20           Terrence Robinson,  
21           Pro Se

22           ON BEHALF OF THE STATE:  
23           Boyd Whigham,  
24           District Attorney

25                                   OFFICIAL COURT REPORTER  
                                  Kelli W. Mills  
                                  408 N. Prairie Street  
                                  Union Springs, Alabama 36089  
                                  (334) 738-3284

1 (In open court.)

2 THE COURT: This is Case Number CC-1994-74.61.  
3 Your request for counsel was denied. You were  
4 brought here today to set forth your petition and  
5 the grounds for it.

6 MR. ROBINSON: Yes, sir.

7 THE COURT: Swear the witness.

8 (Mr. Robinson was placed under oath.)

9 THE COURT: Yes, sir.

10 MR. ROBINSON: I had filed a Rule 32 because in  
11 my indictment I had two counts, one count for  
12 capital murder and one count for felony murder, and  
13 both would equal -- is supposed to be one  
14 indictment; right? So to the First Amendment --  
15 Fifth Amendment, due process to equal procedure and  
16 law and fair trial and sentencing, which I feel  
17 like I got too much time for what they say I did,  
18 but I ain't did nothing, though.

19 THE COURT: You got too much time for what you  
20 did, but you didn't do anything?

21 MR. ROBINSON: For what they say I did. I  
22 didn't do anything.

23 THE COURT: What new evidence do you have to  
24 show that?

25 MR. ROBINSON: My new evidence on my 32 on my

1 indictment right here on the true bill from the  
2 grand jury, nobody signed it right there on my  
3 indictment. It is in my appeal what I had sent up  
4 there.

5 THE COURT: You raised that on appeal, though,  
6 didn't you?

7 MR. ROBINSON: Yes, sir.

8 THE COURT: Okay.

9 MR. ROBINSON: On the Sixth Amendment I had the  
10 right to counsel who represented me at trial and on  
11 direct appeal; right? My counsel didn't represent  
12 me properly.

13 THE COURT: What specifically did they not do?

14 MR. ROBINSON: He tried -- Me and Corey got  
15 tried together, and we were supposed to have been  
16 tried separate.

17 THE REPORTER: Corey?

18 MR. ROBINSON: Corey Knight.

19 THE COURT: You raised that in your appeal,  
20 didn't you?

21 MR. ROBINSON: Yes, sir.

22 THE COURT: Have you got another basis?

23 MR. ROBINSON: Huh-uh. That's the issue I  
24 raised in my Rule 32. I went to trial on capital  
25 murder, but the jury found me guilty of murder,

1           though.

2           And I filed again. In his testimony, he copped  
3 out 30 years saying he had killed the dude, and  
4 then they still tried me and Corey for capital  
5 murder saying we had killed them, and that's a  
6 violation right there.

7           THE COURT: You raised that in appeal, didn't  
8 you?

9           MR. ROBINSON: Yes, sir.

10          THE COURT: What is it that's new? You  
11 allege that you have got some new evidence that you  
12 didn't raise in appeal. What is that?

13          MR. ROBINSON: About my indictment right here  
14 and they ain't signed this, my indictment, on the  
15 true bill in the formal grand jury, but they didn't  
16 sign it. And then I have got two counts on the  
17 indictment; one for capital murder and one for  
18 murder, and it ain't supposed to have but one.

19          THE COURT: Okay. But you raised those on  
20 appeal, didn't you?

21          MR. ROBINSON: This is the new evidence right  
22 here.

23          THE COURT: You filed this. I have a copy of  
24 this; right?

25          MR. ROBINSON: Yeah.

1 THE COURT: Mr. Whigham, do you have anything?

2 MR. WHIGHAM: Judge, we have responded in  
3 writing to this motion, and basically we stand on  
4 what we have responded to in writing, the petition  
5 to file a Rule 32 petition, dated June 6, 1997.  
6 The state filed a response on August 11, 1997.  
7 They are attached to the Record. The Court  
8 dismissed that petition on August 14, 1997. And  
9 the petition filed on August 11, 2000 is a  
10 successive petition, and it is precluded under Rule  
11 32.2B.

12 The Petitioner alleges jurisdictional issues  
13 and newly discovered evidence on page 5 of his  
14 petition, but to invoke the provisions of Rule  
15 32.1B, circumvent Rule 32.2 preclusions,  
16 unfortunately he does not state any issue that is  
17 jurisdictional, and he presents no newly discovered  
18 evidence. And there is nothing new in this  
19 petition than what the Court has previously ruled  
20 on.

21 The judge ruled on that, but then he did set it  
22 aside in an order. The State responded to that,  
23 too, and now we are here in regards to the set  
24 aside order. It is the State's position that the  
25 order that was set aside is in fact proper law and

1 the way it should be ruled on, and we submit that  
2 to the Court.

3 THE COURT: Mr. Robinson, do you have anything  
4 else?

5 MR. ROBINSON: I believe the charges have been  
6 dropped against me, though.

7 THE COURT: I understand you may feel that way.

8 MR. ROBINSON: I have been locked up six years,  
9 going on seven years for something I did not do.

10 THE COURT: I have reviewed the evidence in the  
11 case, Mr. Robinson. There was ample evidence to  
12 convict you. You have raised issues on appeal.  
13 I'm today asking you for any new evidence that you  
14 have. And if that's everything, that's fine, and  
15 I'll rule on it with that.

16 MR. ROBINSON: Huh?

17 THE COURT: I said, if that's all you have got,  
18 I'll give you a ruling on it.

19 MR. ROBINSON: All that I sent you, yes, sir.

20 THE COURT: You are here today to tell me  
21 anything else you want to tell me about it.

22 MR. ROBINSON: Everything is in the ruling  
23 right there.

24 THE COURT: So you are telling me you don't  
25 have anything new?

1 MR. ROBINSON: I don't have anything else.

2 THE COURT: All right. I'll submit it and give  
3 you a ruling on it.

4 (End of proceedings.)  
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State of Alabama  
Unified Judicial System**CERTIFICATE OF COMPLETION  
REPORTER'S TRANSCRIPT**

Page Number

Form ARAP 13

8

TO: The Clerk of the Court of Criminal Appeals  
P. O. Box 301555  
Montgomery, Alabama 36130-1555

Fax: (334) 242-4689

Criminal Appeals Case Number CR \_\_\_\_ - \_\_\_\_

Terrence Robinson v. State of Alabama  
Appellant's Name AppelleeOn appeal from the: ☒ Circuit Court of  
☐ District Court of } Bullock County  
☐ Juvenile Court of }**FILED IN OFFICE**Trial Court Case Number CC-1999-74.61Notice of Appeal Date Feb 20, 2001

CLERK-REGISTER, BULLOCK CO., ALA.

I, Kelli W. Mills, certify that I have this date completed and filed with the clerk of the trial court an original and three copies of a true and correct transcript of all proceedings in the above referenced case that were reported by me and were specifically designated by the appellant for inclusion on the Reporter's Transcript Order. The transcript, which is numbered serially in the upper right-hand corner of each page, begins with a copy of the Reporter's Transcript Order and an index of both the exhibits and the testimony of the witnesses. The original transcript concludes with the original of this notice and the copies of the transcript conclude with copies of this notice. The page number appearing in the upper right-hand corner of this certificate is the last page of my portion of the transcript in this case.

Done this the 20<sup>th</sup> day of March, 2001.  
Court Reporter

**FILING AND SERVICE OF THIS FORM:** Pursuant to Rule 11(b), A.R.App.P., the court reporter should file a copy of this certificate with the Clerk of the Court of Criminal Appeals and should serve copies of the certificate on counsel for the appellant or the appellee if he or she is not represented by appellate counsel, the attorney general and the district attorney, unless the appeal is from a municipal appeal, in which event a copy of the form should be served on the municipal prosecutor rather than the attorney general and district attorney.